02501-9805-CC-00048

CIRCUIT COURT OF MADISON COUNTY
- TO -
COURT OF CRIMINAL APPEALS

JUDGE WHIT LAFON DIVISION I

CIRCUIT COURT CLERK JOE GAFFNEY

VOLUME I OF VII VOLUMES

STATE OF TENNESSEE

VS. CASE NO. 96-589

JON DOUGLAS HALL

FELONY	☒	MISDEMEANOR	☐	ROR	☐	TDOC	☒
BOND	☐	$		INDIGENT	☐		
POST CONVICTION	☐			HABEAS CORPUS		☐	

MR. JERRY WOODALL
MR. AL EARLS
DISTRICT ATTORNEY GENERAL'S OFFICE
LOWELL THOMAS STATE OFFICE BUILDING
JACKSON TN 38301

Attorney For: APPELLEE/APPELLANT

MR JESSE HILL FORD III
MR. CLAYTON F. MAYO
FORD & MAYO
618 N HIGHLAND
JACKSON TN 38301

Attorney For: APPELLEE/APPELLANT

CASE WAS APPEALED BY BOTH STATE AND DEFENDANT

W1999-00023-SC-DDT-DD

Attorney For:

Attorney For:

OFFENSE: FIRST DEGREE MURDER

SENTENCE: TDOC/DEATH

FILED
AUG 07 1997
Clerk of the Courts
Deputy Clerk

Filed the 7th day of AUGUST 1997

COURT OF CRIMINAL APPEALS

BY:

LAYCOOK, JACKSON

I N D E X

NO: _____

STATE OF TENNESSEE

VS.

JON DOUGLAS HALL

INDICTMENT FOR

FIRST DEGREE MURDER
THEFT OF PROPERTY - 2 COUNTS
ESPECIALLY AGGRAVATED KIDNAPPING

WITNESSES:
SUMMON FOR STATE

JENNIFER S. O'CONNOR, RT 1 BOX 403, HOLLOW ROCK, 986-8943

CINTHIA D. O'CONNOR, RT 1 BOX 403, HOLLOW ROCK, 986-8943

STEPHANIE N. HALL, RT 1 BOX 403, HOLLOW ROCK, 986-8943

BRENT BOOTH, JERRY BINGHAM, & RICK LUNSFORD; HCSD

SHERIFF BENDEL BARTHOLOMEW, CARROLL COUNTY SHERIFF'S DEPT.

JIMMY KEE, CARROLL COUNTY AMBULANCE AUTHORITY,
BAPTIST MEMORIAL HOSPITAL, 986-4428

BRIAN BYRD, TBI

BILL SMITH, LINDA SMITH, & CLINTON E. SMITH; NATCHEZ TRACE DR

DONNA ESCUE, HUNTINGDON, 986-4427

DARLENE BROWN & JACKIE BRITTAIN, 500 W CHURCH ST

HERMAN McKINNEY, RT 2 PLEASANT HILL RD, LEXINGTON

DR. REGGIE HENDERSON, REGARDING PATIENT BILLIE JO HALL SEEN ON
7/29/94

DR. VIOLETTE S. HNILICA, MEDICAL EXAMINERS OFFICE, MEMPHIS
REGARDING BILLIE JO HALL

LAB DIRECTOR, ROOM 300, REGIONAL FORENSIC CENTER, 1060 MADISON
AVE, MEMPHIS, TN 38104 WITH LAB RESULTS FOR AUTOPSY
#_____FOR BILLIE JO HALL;
DEFENDANT: JON DOUGLAS HALL

BRENT BOOTH, PROSECUTOR

A TRUE BILL

_____
FOREMAN OF THE GRAND JURY

DATE INDICTMENT RETURNED: OCTOBER 3, 1994

COUNT 1

STATE OF TENNESSEE, HENDERSON COUNTY

THE GRAND JURORS of Henderson County, Tennessee, duly empaneled and sworn, upon their oath, present that

JON DOUGLAS HALL

on or about July 29, 1994, in Henderson County, Tennessee, and before the finding of this indictment, did unlawfully, intentionally, deliberately, and with premeditation kill BILLIE JO HALL, in violation of T.C.A. §39-13-202, all of which is against the peace and dignity of the State of Tennessee.

Jerry Woodall
District Attorney General,
26th Judicial District

COUNT 2

STATE OF TENNESSEE, HENDERSON COUNTY

THE GRAND JURORS of Henderson County, Tennessee, duly empaneled and sworn, upon their oath, present that

JON DOUGLAS HALL

on or about July 29, 1994, in Henderson County, Tennessee, and before the finding of this indictment, did unlawfully and knowingly obtain and/or exercise control over property, to-wit: one 1993 Dodge Caravan automobile, over the value of Ten Thousand Dollars ($10,000.00), without the effective consent of the owner, BILLIE JO HALL, with the intent to deprive the said owner thereof, in violation of T.C.A. §39-14-103, all of which is against the peace and dignity of the State of Tennessee.

Jerry Woodall
District Attorney General,
26th Judicial District

COUNT 3

STATE OF TENNESSEE, HENDERSON COUNTY

THE GRAND JURORS of Henderson County, Tennessee, duly empaneled and sworn, upon their oath, present that

JON DOUGLAS HALL

on or about July 29, 1994, in Henderson County, Tennessee, and before the finding of this indictment, did unlawfully and knowingly obtain and/or exercise control over property, to-wit: one 1993 Oldsmobile Cutlass automobile, over the value of Ten Thousand Dollars ($10,000.00), without the effective consent of the owner, **LINDA SMITH**, with the intent to deprive the said owner thereof, in violation of T.C.A. §39-14-103, all of which is against the peace and dignity of the State of Tennessee.

Gary Woodall
District Attorney General,
26th Judicial District

COUNT 4

STATE OF TENNESSEE, HENDERSON COUNTY

THE GRAND JURORS of Henderson County, Tennessee, duly empaneled and sworn, upon their oath, present that

JON DOUGLAS HALL

on or about July 29, 1994, in Henderson County, Tennessee, and before the finding of this indictment, did unlawfully and knowingly remove and/or confine CLINTON E. SMITH so as to interfere substantially with CLINTON E. SMITH'S liberty, and CLINTON E. SMITH was under the age of thirteen (13) at the time of the removal and confinement, in violation of T.C.A. §39-13-305, all of which is against the peace and dignity of the State of Tennessee.

Jerry Woodall
District Attorney General,
26th Judicial District

IN THE CIRCUIT COURT OF HENDERSON COUNTY, TENNESSEE
DIVISION I

STATE OF TENNESSEE	)	
	)	
VS.	)	NO. 94-342
	)	
JON DOUGLAS HALL	)	

NOTICE OF INTENT TO SEEK DEATH PENALTY AND SPECIFICATION OF AGGRAVATING CIRCUMSTANCES

Comes now the State of Tennessee and, pursuant to Rule 12.3(b), Tennessee Rule of Criminal Procedure, of intent to seek the death penalty in the above-referenced case. The State hereby specifies the following aggravating circumstances that the State intends to rely upon at the sentencing hearing:

1. The murder was especially heinous, atrocious, or cruel in that it involved torture or serious physical abuse beyond that necessary to produce death;

2. The murder was committed for the purpose of avoiding, interfering with, or preventing a lawful arrest or prosecution of the defendant or another;

3. The murder was committed while the defendant was engaged in committing, or was an accomplice in the commission of, or was attempting to commit, or was fleeing after committing or attempting to commit, and first degree murder, arson, rape, robbery, burglary, theft, kidnapping, aircraft piracy, or unlawful throwing, placing or discharging of a destructive device or bomb.

Respectfully submitted,

James W. Thompson
JAMES W. THOMPSON
ASSISTANT DISTRICT ATTORNEY
26TH JUDICIAL DISTRICT

Jerry Woodall
JAMES G. WOODALL
DISTRICT ATTORNEY GENERAL
26TH JUDICIAL DISTRICT

CERTIFICATE OF SERVICE

I hereby certify that a true and exact copy of the foregoing has been mailed to Mr. Frankie Stanfill, 227 W. Baltimore St., Jackson, TN 38301 this the 15th day of December, 1994.

James W. Thompson
JAMES W. THOMPSON
ASSISTANT DISTRICT ATTORNEY
26TH JUDICIAL DISTRICT

IN THE CIRCUIT COURT FOR HENDERSON COUNTY, TENNESSEE
DIVISION I

STATE OF TENNESSEE	)	
	)	No: 94-342; 94-452
VS.	)	94-454
	)	
JON HALL	)	

FILED
KENNY CAYWOOD CIRCUIT CT. CLRK.
JAN 09 1995
BY _____ DEPUTY CLERK

MOTION FOR CONTINUANCE

Defendant, Jon Hall, by and through his counsel, request a continuance in this case and would show unto the Court as follows:

1. The Assistant Public Defender's has resigned and the Public Defender's office in Jackson has just taken over this case.

2. The State has filed a death penalty notice on December 15th, 1994.

For any and all or the above reasons, defendant respectfully request that all dates in this cause be continued to allow proper representation of Defendant.

Respectfully Submitted,

Stephen P. Spracher
Assistant Public Defender
227 West Baltimore
Jackson, TN 38301
(901) 423-5657

CERTIFICATE OF SERVICE

I hereby certify that I have mailed or personally hand delivered a true copy of the foregoing motion to Jim Thompson, Assistant District Attorney, P. O. Box 2825, Jackson, TN 38302, this 9th day of January, 1995.

Stephen P. Spracher

IN THE CIRCUIT COURT OF HENDERSON COUNTY, TENNESSEE
DIVISION I

STATE OF TENNESSEE	)	
	)	DOCKET NO'S: 94-342, 94-452
VS.	)	94-454
	)	CHARGES: KIDNAPPING, 1ST
JON HALL	)	DEGREE MURDER,
	)	VANDALISM

MOTION FOR THE COURT TO CONSIDER ALL MOTIONS AND OBJECTIONS BY THE DEFENSE IN LIGHT OF A HIGHER STANDARDS OF DUE PROCESS AND RELIABILITY THAT ATTACHES IN DEATH PENALTY CASES

Comes now the defendant, through counsel, and respectfully requests this Court to apply, in the course of ruling on motions, objections, and other matters arising in the course of this litigation, the heightened standard of due process required by the Eighth and Fourteenth Amendments to the United States Constitution and Article I, Sections 8, 16, and 17 of the Tennessee Constitution, and by the authorities set out to ensure the exercise of constitutional discretion in the decision and reliability in the result that is required specifically and uniquely in cases involving the potential for the imposition of the sentence of death.

Respectfully Submitted,

Stephen P. Spracher
Assistant Public Defender
227 West Baltimore
Jackson, TN 38301
(901) 423-6657

CERTIFICATE OF SERVICE

I hereby certify that a true and exact copy of the foregoing motion has been forwarded to Jim Thompson, Assistant District Attorney, P. O. Box 2825, Jackson, TN 38302, on this the 9th day of January, 1995.

Stephen P. Spracher

IN THE CIRCUIT COURT OF HENDERSON COUNTY, TENNESSEE
DIVISION I

STATE OF TENNESSEE	)	
	)	DOCKET NO'S: 94-342, 94-452
VS.	)	94-454
	)	CHARGES: KIDNAPPING, 1ST
JON HALL	)	DEGREE MURDER,
	)	VANDALISM

MEMORANDIUM IN SUPPORT OF MOTION FOR THE COURT TO CONSIDER ALL MOTIONS AND OBJECTIONS BY THE DEFENSE IN LIGHT OF A HIGHER STANDARD OF DUE PROCESS AND RELIABILITY THAT ATTACHES IN DEATH PENALTY CASES

I. "DEATH IS DIFFERENT": THE IMPOSITION OF THE PENALTY OF DEATH REQUIRES, AS A MATTER OF FUNDAMENTAL CONSTITUTIONAL LAW, HEIGHTENED SCRUTINY AND RELIABILITY IN THE GUIDANCE AND EXERCISE OF SENTENCING DISCRETION.

As a matter of substantive consitutional law, the imposition of death as a criminal sanction is fundamentally and qualitatively different from every other punishment meted out by a state. It is more servere in quantity and quality from life in prison. The taking of the life of one of its citizens is the most extreme action that a governmental entity can take. Indeed, death, because of its severity and finality, occupies a constitutional classification that is unique unto itself. As the United States Supreme Court explained in Woodson v. North Carolina, 428 U.S. 280 (1976), the Constitution requires a reliability in captial cases that has no parallel in no captial cases:

> The penalty of death is qualitatively different from a sentence of imprisonment, however long. Death in its finality, differs more from life imprisonment than a 100-year prison term differs from only one of a year or two. Because of that qualitative difference, there is a corresponding difference in the need for reliability in the determination that death is the appropriate punishment in a specific case.

Id. at 305

It is from this fundamental and overriding constitutional concern for the reliability of any sentence of death that most of the standards and principles governing capital punishment emanate. Numerous rules and safeguards have been developed by the courts, including the Tennessee Supreme Court and the United States Supreme Court, to circumscribe proceedings where death may be the ultimate

penalty. These rules and safeguards are far more than procedural niceties. They are substantive law, infused with the recognition that, to be constitutional, a sentence of death must be the result of the exercise of individualized, reasoned and reliable sentencing discretion.

Indeed, the Supreme Court has repeatedly recognized that death in such a final and draconian step that its imposition must be attended with constitutional protections designed to ensure both that the courts have reliably identified those defendants who are guilty of a capital crime and for whom execution is the appropriate saction, see, e.g. Ford v. Wainwright, 477 U.S. 399 (1986), and that the death sentence is "and appear(s) to be, based on reason rather than caprice or emotion." Gardner v. Florida, 430 U.S. 349, 358 (1977). As the Court stated in Caldwell v. Mississippi, 472 U.S. 320 (1985):

> This Court has repeatedly said that under the Eight Amendment "the qualitative difference of death from all other punishments requires a correspondingly greater degree of scruntiny of the capital sentencing determination." Accordingly, many of the limits that this Court has placed on the imposition of capital punishment are rooted in a concern that the sentencing process should facilitate the responsible and reliable exercise of sentencing discretion.

Id. at 329 (citations omitted) (quoting California v. Ramos, 463 U.S. 992, 9898-99 (1983). See also Eddings v. Oklahoma, 455 U.S. 104 (1982); Lockett v. Ohio, 438 U.S. 586 (1978); Garner v. Florida, 430 U.S. 349 (1977).[1]

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1. Captial decisions emanating from the United States Supreme Court contain numerous examples fo this conern for the reliability of a death sentence. See, e.g., Barefoot v. Estelle, 463 U.S. 880, 924 (1983) (Blackmun, Jr. dissenting) (Woodson's concern for assuring heightened reliability in capital sentencing determination "is a firmly established as any in our Eighth Amendment jurisprudence"); Eddings v. Oklahoma, 455 U.S. 104, 118 (1982) (O' Connor, J., concurring) ("This Court has gone to

In his opinion in Spaziano v. Florida, 468 U.S. 447 (1984), Justice Stevens noted that "in the 12 years since Furman v. Georgia every Member of this Court has written or joined at least one opinion endorsing the propostition that because of its severity and irrevocavility, the death penalty is qualitatively different from any other punishment, and hence must be accompanied by unique safeguards to ensure that it is a J., concurring in part and dissenting in part) (citations and footnote omitted). See also Parker v. Dugger, 498 U.S. _____, 111 S. Ct. 731, 112 L.Ed. 2d 812 (1991).

The retionale for this well-recognized constitutional distinction between death and every other type of criminal punishment was perhaps best articulated in Justice Brennan's concurrence in Furman v. Georgia, 408 U.S. 238 (1972):

> Death is truly an awesome punishment. The calculated killing of a human being by the State involves, by its very nature, a denial of the executed person's humanity. The contrast with the plight of a person punished by imprisonment is evident. An individual in prison does not lose "the right to have rights." A prisoner retains, for example, the constitutional rights to the free exercise of religion, to be free of cruel and unusual punishments, and to treatment as a "person" for purposes of due process of law and the equal protection of the laws. A prisoner remains a member of the human family. Moreover, he retains the right of access to the courts. His punishment is not irrevocable. Apart from the common charge, grounded upon the recognition of human fallibility that the punishment of death must inevitably be inflicted upon innocent men, we know that death has been the lot of men whose convictions were unconstitutionally inflicted, yet the finality of death precludes relief. An executed person has indeed "lost the right to have rights." As one 19th century proponent of punishing crimnals by death declared, "When a man is

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extradiordinary measures to ensure that the prisoner sentenced to be executed is afforded due process that will guarantee, as much as is humanly possible, that the sentence was not imposed out of whim, passion, prejudice or mistake") Godfrey v. Georgia, 446 U.S. 420, 443 (1980) (Burger, J., dissenting) (In capital cases we must see to it that the Jury has rendered its decision with meticulous care") See also Caldwell, 472 U.S. at 329 n. 2.

> hung, there is end of our relations with him. His execution is a way of saying, You are not fit for this world, take your chance elsewhere.

Id. at 290 (Brennan, J., concurring) (citation omitted) (quoting Stephen, Capital Punishments, 69 Fraser's Magazine 753, 763 (1864). See also Furman, 408 U.S. at 306 (Stewart, J., concurring) ("The penalty of death differs from all other forms of criminal punishment, not in degree but in kind. It is unique in its total irrevocability. It is unique in its rejection of rehabiliation of the convict as a basic purpose of criminal justice. And it is unique, finally, in its absoulte renunciation of all that is embodied in our concept of humanity").

The Tennessee Supreme Court has recognized the unique characteristics of the impostion of the sentence of death and the consequent unique constitutional protections for a defendant charged iwth a capital offense. For example, in Johnson v. State, 797 S.W. 2d 578 (Tenn. 1990), referring to Woodson, supra, the State Supreme Court stated:

> The penalty of death is qualitatively different from a sentence of imprisonment and because of that difference there is a corresponding difference in the need for reliability in the determination that death is the appropriate punishment in a specific case.

797 S.W. 2d at 580. See also State vs. Terry, 813 S.W. 2d 420, 425 (Tenn. 1991) and State v. Middlebrooks, Supreme Court at Nashville, No. 01-S-01-9201-00008, decided 9/8/92, slip opinion, p. 57.

The difference between a life sentence and a death sentence in Tennessee may be greater in actual fact than many imagine. Although the current prediction concerning the amount of time that an inmate serving a life sentence must actually expect to serve before he is released from custody is difficult to predict and is perhaps now longer in this state than it used to be, based on past experience the average release time on a life sentence in the immediate past years has been a little

more than one-fifth of an actual normal life span figured at seventy years.[2]

While a life sentence has in the past taken away a defendant's freedom for one-fifth of his or her life, a death sentence takes form the defendant, not only freedom for the defendant's entire life, but life itself. The death-sentenced defendant endures the psychological debilitation of being condemned to die while the life-sentence defendant enjoys the psychological advantage of anticipating release. The difference between the death sentence and the life sentence is therefore, one of both quality and quantity, substance and degree. The sentence of death is much more severe in all categories and to compare it to other types of sentences, which deprive the defendant of property or liberty, is to compare apples and oranges.

II. SENTENCING JURIES MUST BE CAREFULLY AND ADEQUATELY GUIDED IN THEIR DELIBERATIONS.

To ensure the heightened reliability that is required of proceedings that may result in the imposition of the death penalty, the Jury vested with the authority to impose the sentence must be "carefully and adequately guided" in the exercise of its discretion. Gregg v. Georgia, 428 U.S. at 193. Such guidance will be deemed constitutionally sufficient only it it "channel(s) the sentencer's discretion by clear and objective standards' that provide specific and detailed guidance,' and that make rationally reviewable the process for imposing a sentence of death." Godfrey v. Georgia, 446 U.S. 420, 428 (1980) (quoting, respectively, Gregg v. Georgia, 428 U.S. at 198; Proffit v. Florida, 428 U.S. 242, 253 (1976); and Woodson v. North Carolina, 428 U.S. 280, 303 (1976).

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[2] According to figures released by the Tennessee Sentencing Commission, the average time actually served by inmates, who were released between 1986 and 1991, serving life sentence on first-degree murder convictions in this state, was somewhere around 15 years. [(1) In 1986-1987, 19 inmates were released who had served an average time of 14.9 years for first-degree murder. (2) In 1987-1988, 6 inmates, 11.3 years average time. (3) In 1989-1990, 36 inmates, 15.5 years average time. (4) In 1990-1992, 32 inmates, 15.8 years average time.]

III. A SENTENCE OF DEATH MUST BE BASED UPON AN INDIVIDUALIZED DETERMINATION OF ITS APPROPRIATENESS FOR THE PARTICULAR DEFENDANT UPON WHOM IT IS IMPOSED. TOWARD THAT END, THE SENTENCER MUST BE ALLOWED TO CONSIDER ANY RELEVANT MITIGATING FACTOR, NOT JUST THOSE SPECIFIED BY THE STATE'S DEATH PENALTY STATUTE.

Having made the determination that the defendant is a member of the narrow class of people eligible for death by virtue of the presence of one or more clearly and objectiverly defined aggravating circumstances, the sentencer cannot be constitutionally required even onthat basis to impose a death sentence. Woodson v. North Carolina, 428 U.S. at 404. "The fundamental respect for humanity underlying the Eighth Amendment ... requires consideration of the character and record of the individual offender and the circumstances of the particular offense as a constitutionally indispensable part of the process of inflicting the penalty of death." Id. at 604. See also Roberts v. Louisiana, 431 U.S. 633 (1977); Roberts v. Louisiana, 428 U.S. 325 (1976).

Only through such a process, which requires the sentencer to "consider in fixing the ultimate punishment of death the possibility of compassionate or mitigating factors stemming from the diverse frailties of humankind, "Woodson v. North Carolina, 428 U.S. at 304, can capital defendants be treated as the Eighth Amendment requires -- "as uniquely individual human beings." Id. Because of this need for individualized treatment, the Court has required that the sentencer be permitted to consider, and in appropriate cases base a decision to impose a sentence short of death upon, any state's death penalty statue. Lockett v. Ohio, 438 U.S. 586 (1978). As the Court explained in Eddings v. Oklahoma, 455 U.S. 104 (1982):

> Lockett followed from the earlier decisions of the Court and from the Court's insistence that capital punishment be imposed fairly, and with reasonable consistency, or not at all ... By holding that the sentencer in captial cases must be permitted to consider any relevant mitigating factor, the fule in Lockett recognizes that a consistency produced by ignoring individual differences is a false consistency.

Id. at 112.

IV. DEATH AS A PUNISHMENT MUST BE PROPORTIONATE TO THE CRIME FOR WHICH IT IS IMPOSED.

Finally, the requirement that the "punishment fit the crime" -- that death must be imposed consistently and reserved solely for the punishment of individuals and conduct for which the severest criminal sanction is appropriate -- is a requirement of constitutional magnitude. Eddings v. Oklahoma, 455 U.S. 104 (1982); Cf. Pulley v. Harris, 465 U.S. 37 (1984) (comparative proportionality review constitutionally mandated where part of the state's statutory scheme for imposition of the death penalty). T.C.A. Section 39-13-206(c) specifically mandates a determination concerning whether the imposition of the sentence of death in an individual capital case is arbitrary, excessive, or disproportionate.

V. THE DISCRETION TO IMPOSE DEATH MUST BE LIMITED.

As part of the constitutional jurisprudence of death under the Eight Amendment, the Supreme Court has steadfastly insisted that states meaningfully narrow the class of persons for whom death is an available penalty. Thus, it has been held that a conviction for a crime for which death is an available sentencing option cannot, standing alone, justify the imposition of the penalty from a constitutional standpoint. Rather, the state must specify certain aggravating circumstances, at least one of which must be present, in order for the defendant to become constitutionally death-eligible.

In Zant v. Stephens, 462 U.S. 862 (1983), for example, the Court held that the state "must geninely narrow the class of persons eligible for the dealth penalty" by requiring the finding of a least one statutory aggravating circumstance which sets a particular case apart from murders in general. Id. at 877. As Justice White state in Furman v. Georgia, 408 U.S. 238 (1972), the sentence of death cannot be constitutionally imposed where "there is no meaningful basis for distinguishing the few cases in which it is imposed from the many cases in which it is not." Id. at 313 (White, Jr., concurring).

The Tennessee Supreme Court has recognized the application in this state of the "narrowing" limitation on the exercise of the jury's discretion contemplated in Zant v. Stephens, supra. See, for example, State v. Middlebrooks, Supreme Court at Nashville, No. 01-S-01-9102-00008, decided 9/8/92, slip opinion, p. 51-55.

In order to properly enforce, concerning the decision to impose the sentence of death, this "narrowing" requirement, the "reliability" requirement, and the requirement that the jury's discretion be limited and that its decision be based on the reason and not whim and caprice (see, ibid.), for example, the Tennessee Supreme Court has required that the scope of the state's proof-in-chief in a capital sentencing trial is limited to only proof relevant to the statutory aggravating circumstances. See, Cozzolino v. State, 584 S.W. 2d 765 (Tenn. 1979); and Black v. State, 815 S.W. 2d 166, 179 (Tenn. 1991); and the state is held to a double burden of proof beyond a reasonable doubt in a capital sentencing hearing, i.e., the state must prove beyond a reasonable doubt: (1) the existence of any statutory aggravating circumstance; and, subsequently that (2) any statutory aggravating circumstance outweighs any mitigating circumstance, statutory or otherwise, T.C.A. Section 39-13-204 (g).

VI. THE DISCRETION TO IMPOSE A SENTENCE OF LIFE IS NOT LIMITED

The State and federal constitutions require that the jury's decision to impose a sentence of death must be "limited," "reliable," and "narrowed." At the same time, however, the jury's decision to impose a sentence of life may be based on anything with evidence that is relevant to the character of the defendant or the circumstances of the offense. See, Lockett v. Ohio, 438 U.S. 586 (1978); Zant v. Stephens, supra; Eddings v. Oklahoma, 455 U.S. 104 (1982); Skipper v. South Carolina, 476 U.S. 104; Hictchcock v. Dugger, 481 U.S. 393 (1987) Mills v. Maryland, 486 U.S. 387 (1988). See also State v. Middlebrooks, supra, slip opinion, p. 57.

The defendant's proof, therefore, is not limited to the statutory mitigating circumstances, T.C.A. Section 39-13-204(e) and (j) (9); and, in fact, the defendant is entitled to a jury instruction directing the jury to consider any evidence presented concerning mitigating circumstances, statutory or otherwise, T.C.A. Section 39-13-204(e) ("The trial judge shall also include in the instructions for the jury to weigh and consider any mitigating circumstances raised by the evidence at either the guilt or sentencing hearing or both which shall include but not be limited to those circumstances set forth in subsection (j):") The defendant is entitled to such an instruction upon the presentation of "any mitigating circumstances raised by the evidence," id., and therefore has no specific burden of proof. See, for example, State v. Thompson, 768 S.W. 2d 239, 252 (Tenn. 1989) ("Each juror has discretion to determine the degree to which the proof mitigates against the death penalty.")

In the comparison of the limited scope of the prosecution's proof with the broad scope of the defense's proof that is subject to the jury's scrutiny, the Court in State v. Middlebrooks, supra, noted

> .... a capital sentencer must be allowed wide discretion -- not unlike that used before Furman -- to impose a life sentence based upon any mitigating evidence concerning the character of the defendant or the circumstances of the crime, the sentence of death] on a class of murderers that is demonstrably smaller and more blame worthy than the class of pre-Furman murders eligible for the death penalty.

slip opinion, 59; while the scope of permissible prosecution proof has been limited by Furman and its progeny, the scope of the defense proof has not been limited.

WHEREFORE, this Court should enter an Order recognizing that because the state is seeking the death penalty a heightened standard of review by the Eight and Fourteenth Amendments to the United States Constitution, Tennessee state law and the state constitution of Tennessee.

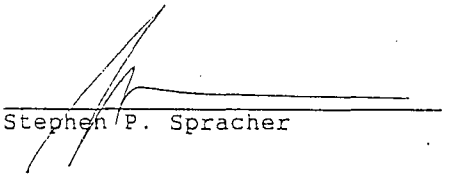
Respectfully Submitted,

GEORGE MORTON GOOGE
DISTRICT PUBLIC DEFENDER FOR
THE 26TH JUDICIAL DISTRICT

Stephen P. Spracher
Assistant Public Defender
227 W. Baltimore
Jackson, TN 38301
(901) 423-6657

CERTIFICATE OF SERVICE

I hereby certify that a true and exact copy of the foregoing pleading has been forwarded to Jim Thompson, Assistant District Attorney, P. O. Box 2825, Jackson, TN 38302, on this 9th day January, 1995.



Stephen P. Spracher

Mail to clerk at Lexington - Place in Lexington Circuit Court Clerk Court File

STATE OF TENNESSEE
DEPARTMENT OF MENTAL HEALTH AND MENTAL RETARDATION
MIDDLE TENNESSEE MENTAL HEALTH INSTITUTE
1501 MURFREESBORO ROAD
NASHVILLE, TENNESSEE 37217
(615) 366-7616

March 28, 1995

FILED
KENNY CAVNESS - CIRCUIT CT. CLERK
APR 10 1995
BY _____
DEPUTY CLERK

The Honorable Whit S. LaFon
Henderson County Circuit Court
P.O. Box 7411
Jackson, TN 38302

RE: State of Tennessee vs. Jon Douglas Hall
Docket No.: 94-342, 94-452, 94-454
Report of Competency Evaluation

Dear Judge Lafon:

Jon Hall was seen by staff from the Forensic Services Division (FSD) of Middle Tennessee Mental Health Institute (MTMHI) in the Department of Corrections on an outpatient basis at Riverbend Maximum Security, and was subsequently admitted to FSD on February 23, 1995, by order of your court. He was sent here for an evaluation of his ability to stand trial on the charge(s) of first degree murder, kidnapping, vandalism, and for an assessment of his mental condition at the time of the alleged offense(s).

After completion of the competency evaluation, the staff has determined that Mr. Hall's condition is such that he is capable of adequately defending himself in a court of law. In making this determination, it was concluded that he does understand the charges pending against him and the consequences which might follow, and he is able to advise counsel and participate in his own defense.

With regard to Mr. Hall's mental condition at the time of the alleged offenses, it is the opinion of the staff that he does not meet the criteria for an insanity defense pursuant to the provisions of T.C.A. 39-11-501. Therefore, a defense of insanity cannot be supported.

The order also specified that the evaluation would address matters which relate to alcohol and/or drug dependence and the defendent's intellectual functioning. The evaluation staff are of the opinion that the defendent does have an alcohol and drug dependence which could affect his normal behavior, and he scored in the low-average range of intellectual functioning.

The staff further determined that Mr. Hall does not meet the standards of judicial commitment to a mental health institute pursuant to the provisions of T.C.A. 33-7-301(b) and 33-6-104.

We have returned Mr. Hall to the custody of the officials at Riverbend Maximum Security Correctional Facility as he is currently in safekeeping status from the Henderson County Jail. We did not recommend follow-up services, although he could benefit from alcohol and drug rehabilitation. We have also notified the mental health center which serves the Henderson County Jail of our recommendations.

If you have any questions about this case, please do not hesitate to contact me at (615) 366-7973.

Sincerely,

Larry Southard, Director
Forensic Services

cc: James W. Thompson, District Attorney General's Office
George Morton, Defense Attorney
Richard Drewery, West Tennessee Behavioral Center

LS/bb

IN THE CIRCUIT COURT FOR HENDERSON COUNTY TENNESSEE, DIVISION I

FILED
KENNY CAWTHON CIRCUIT CT CLK
MAY 0 2 1995
BY
DEPUTY CLERK

STATE OF TENNESSEE)
)
V.) NO. 94-342 94-452 94-
)
JON HALL)

WITHDRAWL OF COUNSEL - REPLACEMENT BY COURT

Comes now the Petitioner/Defendant, Jon Hall, and respectfully moves this Court for "WITHDRAWL OF COUNSEL" under T.C.A. 40-14-104; and request this Court to waive new appointment for atleast thirty (30) days for the following an just reason:

Defendant is in the process in trying to retain Counsel within his own means. After defendant has exercised due dilligance in such, and no Counsel has been retained, defendant then request this Honorable Court to appoint new Counsel.

In further support of this motion to withdraw Counsel, Petitioner/Defendant will show forth this Court the following;

Attorney George Googe has engaged in conduct involving dishonesty, fraud, deceit, and mirepresentation of this defendant; and engaged in conduct that is prejudicial to the Administration of justice; and engaged in other conduct that adversely reflects his fitness to practice law. DR 1-102 (a) 1,4,5,6,.

Attorney Googe has failed to seek the lawful objectives for defendant Hall through reasonably means permitted by law. He has failed to accede to a reasonably request of opposing Counsel which has prejudiced the rights of this defendant by not being punctual or in fulfilling all professional commitmetns by use of offensive tactics, amd failing to treat with courtesy and consideration, all persons involved in this legal process. DR 7-101 (a) 1,3:

Attorney has concealed and knowingly failed to disclose everything that is required by law for him to reveal, to his knowledge. DR 7-102 (a) 3,8:

Defendant contends that he has ask Attorney to file numerous motions including: Change of Venue and to suppress certain evidence pursuant to this case to name a few.

Defendant contends that his Attorney has lied about having in his possesion certain evidence that is pertinent and material to the defense.
In conjunction with this, defendant contends that Attorney has failed to ascertain police reports that is paramount to his defense, and has failed to petition the state for any/all exculpatory evidence that may be favorable to the defense, if any.

Defendant conte that he is not pleased with Attorney Googe representing him, and does not feel that said Attorney is representing his best interest within his means permitted by law.

A copy of this motion will be forwarded to the Board Of Professional Responibility for an added inclusion in Attorney Googe records.

Defendant respectfully ask this Court that the time table for this motion start after the Court has dismissed sais Attorney from his case.

WHEREFORE, Petitioner/Defendant ask this Court that his Attorney be dismissed from representing him.

Respectfully Submitted,

Jon Hall - Petitioner/Defendant

I Jon Hall hereby certify that I have mailed a copy of the exact same to George Googe and James Woodall prosecutor for the state. This the 27th day of April 1995.

SWORN TO ME THIS THE 27th day of APRIL 1995.

NOTARY PUBLIC [signature]

MY COMMISSION EXPIRES My Commission Expires May 1999

IN THE CIRCUIT COURT OF HENDERSON COUNTY, TENNESSEE
DIVISION I

STATE OF TENNESSEE)
) Nos. 94-342; 94-452 & 94-454
VS.)
)
JON HALL)

ORDER ALLOWING PUBLIC DEFENDER'S OFFICE TO WITHDRAW
AND APPOINTING PRIVATE COUNSEL

This matter came on to be heard before the Honorable Whit LaFon, Circuit Judge, on the 19th day of May, 1995, and it appearing to the Court that the Defendant, Jon Hall, is charged with First Degree Murder, that a death penalty notice has been filed by the State of Tennessee and that an irreconcilable conflict exists between the Defendant and the Public Defender, such that private counsel should be appointed.

IT IS, THEREFORE, ORDERED, ADJUDGED AND DECREED that the Public Defender's Office of the 26th Judicial District is hereby allowed to withdraw from representation of Defendant, Jon Hall.

IT IS FURTHER ORDERED that Carthel Smith, Attorney at Law, of Lexington, Tennessee is appointed to represent Defendant, Jon Hall. After Mr. Smith has had time to review the file in this case, the Court will consider appointing an additional attorney to assist Mr. Carthel Smith as co-counsel. Furthermore, Mr. Smith is authorized mileage expense at the regular state rate to visit Mr. Hall since this would be necessary for the defense in this case and no less expensive alternative is available for consultation and preparation in this death penalty matter. Mr. Hall is currently being held pre-trial at the Riverbend Facility in Nashville, Tennessee.

ENTER this 22 day of May, 1995.

Whit LaFon
Whit LaFon, Circuit Judge

GEORGE MORTON GOOGE
DISTRICT PUBLIC DEFENDER

James W. Thompson
JIM THOMPSON
ASSISTANT DISTRICT ATTORNEY

CERTIFICATE OF SERVICE

I hereby certify that I have forwarded by U. S. Mail, postage prepaid a true and correct copy of the foregoing Order to the following:

1. Carthel Smith, Attorney at Law, 85 E. Church Street, Lexington, TN 38351, and

2. Jon Hall, Inmate No. 238941, Riverbend Maximum Security Institute, Unit 1 A-209, 7475 Cockrill Bend Ind. Rd., Nashville, TN 37209-1010.

This 22 day of May, 1995.

George Morton Googe

IN THE CIRCUIT COURT OF HENDERSON COUNTY
AT LEXINGTON, TENNESSEE

STATE OF TENNESSEE)
)
V.) NO.: 94-342 94-452 94-454
)
JON HALL)

FILED
KENNY CAVNESS CIRCUIT CT. CLERK
MAY 23 1995
BY _____
DEPUTY CLERK

MOTION FOR EXCULAPTORY EVIDENCE - JENCKS ACT

Comes now the defendant, Jon Hall, and moves this court pursuant to Rule 26.02 of the Tennessee Rules Of Criminal Procedures, and request the Attornet General to produce to him any/all "Exculpatory Evidence" in the possesion of the state, if any;

26.02 (1) That defendant be provided with the existence, description, nature, custody, condition and location of any books, documents, or other tangible things and the identity and location of any persons having knowledge of any discoverable matter that may be in the possesi of the state and/or may become known, that is favorable material to the defendant.

I. POINTS AND AUTHORITIES

In the landmark case of Brady v. Maryland 373 U.S. 83, 83 S.CT. 1194, 10 L.ED 215 (1963), the United States ruled that the prosecution has a compelling duty to voluntarily furnish the accused with any exculpatory evidence that pertains to (a) the guilt or innocence of the accused; (b) the punishment which may be imposed if the accused is convicted of a criminal offense. The court said in Brady that "suppression by the prosecution of evidence favorable to an accused upon request violates due process where the evidence is material either to guilt or to punishment, irrespective of the good faith or bad faith of the prosecution". 373 U.S. at 87, 83 S.CT. at 1196-1197, 10 L.ED. at 219. Thus, four prerqisities must be present before the prosecutior is required to furnish the accused with "Exculpatory evidence". First. the evidence must be material, Second, the evidence must be favorable the accused, his defense, or the sentence imposed if found guilty. Third, the state suppressed the evidence. Fourth, the accused must mak a proper request for the production of the evidence, unless the evider when viewed by the prosecution, is obviously exculpatory in nature and will be helpful to the accused. See United States v. Bagley, 473 U.S. 667, 105 S.CT. 3375, 87 L.ED. 481 (1985); United States v. Agurs 427 U.S. 97, 96 S.CT. 2392, 49 L.ED. 2d 342(1976); Brady v. Maryland supra Strouth v. State, 755 S.W.2d 819, 828 (Tenn. Crim. App.)

The prosecutors duty to disclose is not limited in scope to "competent evidence" or "admissible evidence". The duty extends to "favorable information" unknown to the accused. United States v. Gleason 265 F. Supp. 880,886 (S.D.N.Y. 1967), See also Branch v. State 4 Tenn. Crim. App. 164, 469 S.W.2d 533 (1969).

The defendant s ing the discovery does substantial need of the materials in the preparation of his case, and that he is unable without undue hardship to obtain the substantial equivalent of the materials by other means.

Wherefore, premises considered, defendant request that he provided with all exculpatory evidence in supra case numbers.

Respectfully Submitted,

Jon Hall

Jon Hall - Defendant

CERTIFICATE OF SERVICE

This is to certify that I have made service on Jerry Woodall, opposing Attorney for the State of Tennessee, PO BOX 2825 Jackson Tn 38302, this the 14th day of May 1995.

SWORN TO ME THIS THE 14th DAY OF May 1995.

NOTARY PUBLIC [signature]

MY COMMISSION EXPIRES My Commission Expires JAN. 24, 1998

IN THE CIRCUIT COURT OF HENDERSON COUNTY
AT LEXINGTON TENNESSEE

STATE OF TENNESSEE

V.

JON HALL

NO: 94-342

MOTION TO PROHIBIT DISPLAY OF PHOTOGRPAHS OF THE DECEASED

Comes now the defendant, Jon Hall, and moves this court pursuant to the decision in State v. Banks, 564 S.W.2d 947 (Tenn. 1978) to prohibit the state from displaying photographs of the body of the decedent prior to her death.

In support of this motion a memorandum of law is hereby set forth.

POINTS AND AUTHORITIES

The following memorandum of law is submitted in support of the motion to prohibit display photographs of the deceased. The defendant asserts that any such display would be highly prejudicial and would be highly uneccessary and inflame the emotions and passions of the jury.

A. Photogrpahs taken after the death of the Victim..

In State v. Banks, 564 S.W.2d 974 (Tenn. 1978), the Tennessee Supreme Court held that photographs of a deceased were admissable if: (1) the photos were verified and authenticated; (2) the photos were relevant to a contested issue; and (3) the photos probative value was not outweighed by their prejudicial effect.

In Banks, the Court also expressed a preference for testimony by a medical professional, such as a pathologist. This type of testimony often better explains the events to the jury without the dangers which are present with gruesome photographs as shown to the jury. See Banks, 564 S.W.2d at 951- 2. See also, State v. Duncan, 698 S.W.2d 63, 69 (Tenn. 1985), and State v. McCall, 698 S.W.2d 643, 648 (Tenn. Cr. App. 1985).

Any photographs of the deceased in this case would be especially grusom and horrifying due to the manner of the death. The photos would also be of questionable probative value to any contested, to any contested issue in this case. Without question, any minimal probative value these photos would clearly be outweighed by the substantial prejudice the defendant would suffer should these photos be exhibited to the jury.

B. Photographs of the deceased before her death.

Photogrpahs of the deceased prior to her death (commonly referred to as "life photos:) should be excluded if "they add little or nothing to the sum total knowledge to the jury" or are not sufficiently relevant to a legitimate controverted issue in a case". See generally, State v. Strou 620 S.W.2d 467, 472 (Tenn. 1981); State v. Dicks, 615 S.W.2d 126, 128 (Tenn. 1981); and Taylor v. State, 475 S.W.2d 51,553 (Tenn. Cr. App.197

While appellate c rts in Tennessee have oft found erroneous admissio of "life photos" to be harmless, it is error nonetheless. "Life photos" like "death photos" have the same potential to excite the passions of a jury and cause them to decide the issues based on emotion rather than reason. Unless the State can show a controverted issue which a "life photo would be probative of, these photos should be excluded.

CONCLUSION

The defendant respectufl1y request that the Court exclude any photographs of the deceased. The defendant also respectfully request that before any photo be admitted,the defense have any opportunity to stipulate to the facts the State wishes to establish through the introduction of that photograph. See State v. Banks, 564 S.W.2d 947,951 (Tenn. 1978) and Gladson v. State, 577 S.W.2d 686 (Tenn. Cr. App.)

Respectufl1y Submitted,

Jon Hall

Jon Hall - Defendant.

Certificate of Service

This is to certify that I have made service upon J. Woodall opposing Attorney for the State, PO BOX 2825 Jackson Tenn. 38302. Signed this the_____day of_____1995.

SWORN TO ME THIS THE 3d day of May 1995.

NOTARY PUBLIC Valerie D. Murray

MY COMMISSION EXPIRES My Commission Expires JAN. 20, 1999

IN THE CIRCUIT COURT OF HENDERSON COUNTY
AT LEXINGTON TENNESSEE

FILED
KENNY CAVNESS - CIRCUIT CT. CLRK.
JUN 0 1 1995
BY
DEPUTY CLERK

STATE OF TENNESSEE)
)
V.) NO 94-342 94-452 94-454
)
JON HALL)

MOTION TO PRESERVE EVIDENCE

Comes now the defendant, Jon Hall, and moves this court to order the state to preserve the physical evidence in this cause.

1. That the State of Tennessee, in its investigation relative to this cause, has taken certain items of physical evidence, including, but not limited to blood. Said samples are perishable.

2. That the defendant desires to have an independant laboratory test said samples and intends to seek permission to do so should further proceedings in this cause be necessary.

3. That unless the State of Tennessee preserves any and all perishable evidence, the defendant will be deprived of his right to discover potentially exculpatory evidence.

WHEREFORE, premises considered, defendant prays:

That this court order the State of Tennessee to preserve any and all physical evidence which it has gathered during its investigation of this matter, pending further proceedings.

Respectfully Submitted,
Jon Hall
Jon Hall - Defendant

CERTIFICATE OF SERVICE

This is to certify that I have made service upon J. Woodall, opposing counsel for the State of Tennessee, PO BOX 2825 Jackson Tenn. 38302. Signed this the _____ day of _____ 1995.

SWORN TO ME THIS THE 30 day OF May 1995.

NOTARY PUBLIC Valerie D. Murry

MY COMMISSION EXPIRES My Commission Expires JAN. 20, 1999

IN THE CIRCUIT COURT FOR TWENTY-SIXTH JUDICIAL DISTRICT
HENDERSON COUNTY AT LEXINGTON, TENNESSEE
DIVISION I

FILED
KENNY CAVNESS - CIRCUIT CT. CLRK.
JUL 14 1995
BY _____ DEPUTY CLERK

STATE OF TENNESSEE)
)
V. : CRIM. NOS. 94-342, 94-452 and 94-454.
)
JON HALL)

ORDER APPROVING EMPLOYMENT OF
JURY SELECTION CONSULTANT

This cause came on to be heard on the 12th day of July 1995, before the Honorable Whit LaFon, Circuit Judge, upon the *ex parte* motion of the Defendant, Jon Hall, for the authorization to employ a jury selection consultant at state expense to assist defense counsel in the preparation of this case. The Court finds that the motion is well taken and should be granted.

IT IS, THEREFORE, ORDERED that defense counsel is authorized to employ Julie E. Fenyes of Germantown, Tennessee, to perform jury selection consultation in this matter, at the rate of $50.00 per hour.

IT IS FURTHER ORDERED that said consultant is authorized to perform up to 40 hours of work on this case, at which time she shall report to defense counsel concerning her progress. Defense counsel shall then report to the Court before any further work may be authorized.

ENTER on this the 12th day of July, 1995.

Whit LaFon
CIRCUIT JUDGE

MIKE MOSIER, ATTORNEY AT LAW

Carthel L. Smith, Jr. 14 JUL 95
CARTHEL L. SMITH, ATTORNEY AT LAW

APPOINTED ATTORNEYS FOR THE
DEFENDANT, JON HALL

A TRUE COPY
HENDERSON COUNTY, TENNESSEE
BY _____

IN THE CIRCUIT COURT OF HENDERSON COUNTY
AT LEXINGTON, TENNESSEE

STATE OF TENNESSEE)
)
V.) NO. 94-342,
)
JON HALL)

FILED
KENNY CAVNESS - CIRCUIT CT. CLRK.
OCT 26 1995
BY _____
DEPUTY CLERK

MOTION TO DISMISS AND ABATE THE INDICTMENT

Comes now the defendant, Jon Hall, by and through himself and would respectfully move this court to dismiss the bind-over pursuant to supra indictment and in conjunction with T.C.A. § 40-1131, as cited in State v. Waugh, 564 S.W.2d at 654.

Accordingly, attached heretofore, defendant advers to his supporting motion to dismiss and affidavit in support for an abatement of the bind-over.

WHEREFORE, defendant will forever pray.

Respectfully Submitted
Jon Hall
Jon Hall - Defendant
RMST 7475 Cockrill Bend
Ind Rd Nash Tn 37209-1010

SWORN TO ME THIS THE 19th DAY OF October 1995.

NOTARY PUBLIC Virginia Walker

MY COMMISSION EXPIRES July 24 1999.

CERTIFICIATE OF SERVICE

This is to certify that I have made service upon Jerry Woodall, Attorney General for Henderson County, P.O. Box 2825 Jackson Tn 38302, with proper postage affixed thereto to insure delivery, this the_____ day of_____ 1995. _____.

N THE CIRCUIT COURT OF HENDERSON COUNTY
AT LEXINGTON TENNESSEE

STATE OF TENNESSEE)
)
V.) NO. 94-342
)
JON HALL)

AFFIDAVIT IN SUPPORT OF MOTION TO DISMISS AND ABATE
THE BIND-OVER

STATE OF TENNESSEE
-ss-
COUNTY OF DAVIDSON

I Jon Hall hereby after first being duly sworn hereby state and depose the following to-wit:

I was denied effective assistance of counsel during the Preliminary hearing held for me on August 22, 1994; I was denied ample time to consult with my Attorney's, and said Attorney's made no motion to the court for such; I was denied a Preliminary hearing on the Kidnapping and theft charges; my Attorney's waived the Preliminary hearing on the kidnapping and theft charges after I specifically told them not to; these said charges was later used against me by Attorney General Woodall as an enhancement tool to seek the death penalty; I was subjected to self-incrimination when Byrd did not read my Miranda rights; he then sought custodial interrogation against me without reading my rights to me, and then used false and perjured testimnoy against me during the Preliminary hearing; Agent Byrd also played this false and perjured testimony to the news-media, thereby denying me the right to a fair and impartial Jury Trial; this said false and perjured testimony was used and presente to the Grand Jury to bind me over which resulted in a True Bill being returned.

I Jon Hall hereby state under penalty of perjury that the forgoing affidavit in support of this motion to dismiss is true to the best of knowledge and belief. Signed this the 19th day of October 1995.

Jon Hall

Jon Hall - Defendant

SWORN TO ME THIS THE 19TH DAY OF October.

NOTARY PUBLIC Virginia Dillon

MY COMMISSION EXPIRES July 24, 1999.

MR JON HALL #238804
RMSI 7475 COCKRILL BEND IND RD
NASHVILLE TN 37209-1010

HONORABLE WHIT LAFON
CIRCUIT COURT JUDGE
HENDERSON COUNTY
LEXINGTON TN 38351

DATE: 10/20/95

RE: MOTION OF DISMISSAL FILED PRO-SE:

Dear Sir:

I am writing to you in conjunction about the enclosed motion. Sir, I did not want to file this pro-se, but at this time my lawyers appointed to me leave me no other choice.

Despite my pleas to gain exculpatory information that I think pertains to my case, my lawyers will not try and ascertain the information requested. I ask them to try and get records from D.H.S., transcripts from the Protection order my wife filed against me, and other information that I think would help mitigate the murder charge I am currently facing. This has been all to no "avail"

I need said evidence for other reasons as well pertinent to my case, but, specifically, to show the character of my late estranged wife, that she was the first aggressor etc... My attorney's contend this is irrelevant; however, I know that it's not. I can also use this defense if what I am alleging is factual. Tennessee Rules of Evidence 404 (2) provides:

Character of Victim: Evidence of a pertinent character trait of the victim of crime offered by an accussed or by the prosecution to rebut the same, or evidence of a character trait of peacefulness of the victim offered by the prosecution in a homicide case to rebut the evidence that the victim was the first aggressor.

Sir, please entertain my motion to abate the charges I am facing, if nothing elese, so I can have it entered into the record for appeal purposes, pursuant to Tennessee Rules Of Criminal Procedures, Rule 12.

Please find enclosed of the things I have asked my attorney's to ascertain in my behalf, but have failed to do so, or atleast even try.

Respectfully Submitted,

Jon Hall

Jon Hall - Defendant

Sworn to before me this 20th day of October, 1995.

Virginia Walker

My Commission Expires July 24, 1999.

P.S. I Have Sent Jerry Woodall copies of Dismissal + the letters to my Atty. Dated 9/19/95 & the D.A. counter Acusal Pursuit of Exculpatory Evidence enclosed

IN THE CIRCUIT COURT OF HENDERSON COUNTY
AT LEXINGTON TENNESSEE

STATE OF TENNESSEE)
)
V.)
) NO. 94-342, 94-452, 94-454
JON HALL)

FILED
KENNY CAVNESS - CIRCUIT CT. CLRK.
OCT 26 1995
BY DEPUTY CLERK

MOTION TO DISMISS ALL SUPRA INDICTMENTS

Comes now the defendant, Jon Hall, by and through himself, and moves this court to dismiss all supra indictments against him under Rule 12 (a), (1), of the Tennessee Rules of Criminal Procedures; In support of this motion, defendant will respectfully show forth this court the following:

1. BRIEFING OF THE PRESENTMENT AND INFORMATION OF THE PRELIMINARY.

On August 4th, 1994, defendant was extradicted from Belton County Texas to Henderson Conty Tennessee, to face charges of the following to-wit: First Degree Murder (1CT.), Theft of Property (2CT.), and Aggravated Kidnapping (1CT.). On or about the date of 9/7/94, defendant was indicted for Possesion of Implements for Escape. On or about 9/___ 1994, defendant was also charged with Vandalism (1CT).

On 8/22/1994, defendant was scheduled for a Preliminary hearing on docket number 94-342, (inter-alia).

From the dates of 8/4 to 8/22/1994, defendant never seen his appointed Attorney's until (5) minutes before the Preliminary hearing[1].

Defendant contends on the date of 8/22/1994, he was escorted to the Lexington Courthouse at approximately (9:00 A.M.). Defendant contends that he was placed in a holding cell awaiting said procedures, when he overheard Brent Booth (Prosecutor), discussing his case with (2) other men, inwhich was his appointed Attorney's Stanfill and Hinson.

Defendant contends that he was removed from said holding cell and introduced to said Attorney's. Defendant contends that Hinson ask him did he have (5.000.00) dollars to pay for an alleged Psychiatric examination. At which time the preliminary hearing was to be had. As

1. Both Attorney's, Jack Hinson and Frankie Stanfill later withdrew from the case after the Preliminary hearing.

noted, defendant contends that he had approximatley (5) minutes to preapre for the Preliminary hearing.

2. THE PRELIMINARY HEARING:

The effective assistance of counsel in this matter was a farce and a mockery. Defendant contends that he did not waive the Preliminary hearing on the Kidnapping charge, and contends that he repeatedly told Attorney's that he did not want to waive said hearing on the same. Defendant contends that this was all to no "avail".

There has also been a manifestation of injustice, malicious prosecution, denial access to the court, and denial to proper representation to adequately prepare for the Preliminary hearing, all leading to inflamed waiver of the Kidnapping indictment, and an abandonment to impeach certain evidence used and introduced by the State's witness, Brian Byrd for the Tennessee Bureau of Investigation. (See attached Preliminary hearing and News Articles, referred to hereinafter as defendants "Exhibit's A and B respectively).

The following colloquy took place at the Preliminary hearing that will substantiate defendants motion to dismiss, (in-part), verbatim:

J.J: Mr. Hall is charged with First Degree Murder and Kidnapping. How do you plea?

P.D. With all due respect your Honor, the defendant respectfully enters a not guilty plea.

J.W. Your Honor may I address the court. The defense counsil stop participlying furthercist of the Preliminary hearing, the defendant waived the Kidnapping case to the Grand Jury for their consideration. We want to proceed on the proably cause. (inaudible).

The transcript shows that Attorney Hinson never responded or objected to Woodall adressing the court.

(a) If defendant waived the Preliminary hearing on the Kidnapping indictment, why did defense Attorney enter into transcript a not guilty plea on the Kidnapping in the first place?

(b) If defendant did not waive the Preliminary hearing on the Kidnapping indictment, why then did Hinson not object to Woodall's objection that he did waive the Preliminary hearing?

(c) Had Hinson and Woodall discussed defendants case prior to the Preliminary hearing, without notice given to the defendant?

(d) Did Woodall and Hinson conspire against the defendant to expedite the Preliminary hearing at the lowest possible expense for the State?

(e) Was it mentioned during the Preliminary hearing that the alleged victim of the Kidnapping was attending his first day of school, and that the State did not want to disturb his attendance?

(f) Did the State really have pertinent evidence and information to bound the defendant over to the Grand Jury on the Aggravated Kidnapping?

3. THE EVIDENCE PRESENTED AT THE PRELIMINARY HEARING ON 94-342:

During the Preliminary hearing the following colloquy took place between Prosecutor Woodall and Agent Brian Byrd, verbatim:

J.W. (pg.5) Alright, just one minute. In addition, to what the defendant told you, as you testify here today, were you able to observe the defendnats person?

B.B. Yes.

J.W. Did you observe any marks on his person or on his body, which were consistent with your previous testimony?

B.B. (pg.6) Yes, sir. There were a great deal of scrapes to his hands there was notable damage to his hands as if he had been accident or injury of some sort.

J.W. Now was there any injury to the palm of the defendants hand?

B.B. No, sir.

J.W. Was the injury to the knuckles, fingers and thumbs?

B.B. It all appeared to be the back of the knuckles of the hands.

J.W. Would this be both right and left hand?

B.B. I believe I note it on both hands. Yes, sir.

CROSS-EXAMINATION OF BYRD BY DEFENSE ATTORNEY HINSON:

P.D. (pg.9) Scrapes on the hand, you indicated that there was scrapes or scratches on the knuckles, fingers and hand. Was this both hands?

B.B. Ah. To the best of my knowledge it was.

P.D. Is there anything you have done in the past weeks that relates to the scrapes on top of the hand that preserves that?

B.B. To my knowledge, I don't think we did. No, sir.

P.D. Did you ask defendant about that there?

B.B. Yes, sir.

Defendant contends that Byrd perjured himself on the stand about the supra evidence, pursuant to the scrapes and scratches on his hand. Byrd admitted into transcript that they never preserved any evidence to support the condition of defendants hands. Defendant contends that Byrd testified that both his hands were bruised and swollen with cuts and scrapes. Defendant contends that pictures were taken of his hands by the Belton County Sheriff's Department, and compared one hand to the other by use of a ruler, to show the amount of swelling to the hands. Defendant contends that only his right hand was swollen. (Belton County Texas reports will be referred to hereinafter as Defendants "Exhibit C").

Defendant contends that Byrd gained access to the Belton Texas report and pictures and perjured himself during the Preliminary hearing.

Byrd also contradicted and impeached himself during the Preliminary hearing under direct and cross-examination about defendants rights being read to him:

DIRECT EXAMINATION OF BYRD BY WOODALL CONCERNING THE DEMISE OF DEFENDANTS WIFE, (BILLIE HALL):

J.W. (pg.5) Alright now. After he made that staement to you, I believe he did not know she was dead until the day before?

B.B. That is the statement he made to us.

J.W. I did it. I did it. Now after that what did you do?

B.B. We discussed and read the rights waiver, when through the sheet we got down to the part where he would sign the right waiver and give us a statement. He stated that he would not sign statement without counsel being present, so we terminated the interview at that point.

J.W. Alright so, after he allowed you to complete the Miranda information he then ask for an Attorney, and you terminated the interview?

B.B. Correct.

J.W. Is that correct?

B.B. Correct.

J.W. What day was this?

B.B. This would have been on the 3rd, the day before the election.

BYRD UNDER CROSS-EXAMINATION BY DEFENSE ATTORNEY HINSON:

P.D. O.K. And of today date, three, two and half, three weeks later, that individual has never been read his rights?

B.B. No, sir.

The false testimony speaks for itself and needs no argumentation. Byrd also perjured himself under oath at the Preliminary hearing when stating under direct examination by Woodall: "after reading the defendant his rights, you terminated the interview"?

B.B. Correct.

However under cross-examination by Attorney Hinson, Byrd perjured himself about terminating the interview.

P.D. (pg.9) Scrapes on the hand, you indicated that there was scrapes or scratches on the knuckles, fingers and hand. Was this on both hands?

B.B. Ah. To the best of my knowledge it was

P.D. You took no pictures of that?

B.B. To my knowledge, I don't think we did. No, sir.

Perjured testimony: P.D. Did you ask defendant about there?

B.B. Yes, sir.

Woodall reiterated his question to Byrd three (3) times to make sure he knew he terminated the interview, and reiterated about what day it was to make sure he knew, inwhich, Byrd responded the day before the election, August 3rd. Byrd then also perjured himself by stating, "we did ask the defendant about the scrapes on his hand".

Defendant contends that Byrd questioned him x-amount of times during extradition from Belton Texas to Henderson County Tennessee.

4. MEMORANDUM OF LAW POINTS AND AUTHORITIES TO DISMISS ALL SUPRA INDICTMENTS IN THIS CAUSE:

RIGHT TO EFFECTIVE ASSISTANCE OF COUNSEL AND RIGHT TO PREPARE FOR THE DEFENSE:

Defendant was not provided with effective assistance of counsel, and did not have ample time to prepare for the Preliminary hearing. Defendant seen his Attorney's for only (5) minutes before the Preliminar hearing. The Sixth Amendment guarantees to a criminal defendant the right to effective assistance of counsel at every step in the proceedings. U.S.C.A. Const. Amend. 6.

Counsel entering the case at the time of the defendants first apperance in court (usally Preliminary hearing) is likely to be confront with a drastic curtailment of the opportunity for an inital interview Counsel's first task will often be to impress upon the court necessit for allowing him or her with sufficent time to discuss essential matters with the new client. In addition to whatever rights to a continuance and to legal representation at Preliminary hearing may be provided by State law, counsel should invoke the clients federal 6th and 14th Amendment, which guarantees the opportunity for lawyer-clien consultation in the course of judicial proceedings where there are tactial decisions to be made and stratedgies to be reviewed. Gedars v. United States, 425 U.S. 80, 88. If counsel is denied ample time fo an adequate interview and investigation s/he should resist strongly as possible being pressed to proceed with the Preliminary hearing. In many jurisdictions, rights are not exercised and motions not made prior to or at Preliminary arraignment, that may be irrevocably lost.

The Constitution guarantees of Assistance of Counsel, and cannot not be satisifed by mere formal appointment. Avery v. Alabama, 308 U.S. 444, 446. It is therefore imperative to make a detailed factual recor of both the Attorney's unprepareavideness and justification for it. Morris v. Slappy, 461 U.S. (1983).

Counsel should make a clear request on behalf of his client for the assurance of adequate counsel throughout the case. As an Attorney, s/he has the obligation to accept the appointment, but s/he has neith the obligation nor the right to be used to create the apperance of representation without its reality, such as it is in this case agains defendnat Hall. Attorney's second job is to request adequate time to interview the defendant privately and to prepare for the arraignment. This is important at a Preliminary hearing, and Attorney's position should be the same. 425 U.S. 90 (1976).

As incorporated herein, defendant Hall seen his appointed Attorney's for only (5) minutes before the Preliminary hearing. Attorney's did not make any motions to post-pone the Preliminary hearing to adequately prepare for the hearing, and to elicit facts for the same. [A] trial lawyer was ineffective when his only contact with a client was (15) minutes before the guilty plea. Butler v. State, 789 S.W.2d 898 (Tenn. 1990).

The ineffective assistance of counsel during the Preliminary hearing in this matter could be narrowed to the following: 1) Did the ineffective assistance of counsel prejudice the defendant; 2) Was the ineffective assistance of counsel harmless error.

The determination whether the hearing is a "critical stage" requiring the provision of counsel depends, as noted, upon an analysis "whether potential substantial prejudice to defendants rights inheres in the.. confrontation and the ability of counsel to avoid that prejudice". United States v. Wade, supra, [388 U.S. 218] at 277, [87 S.Ct. 1926, at 1932] [18 L.Ed.2d [1149] at 1157]. Plainly the guiding hand of counsel at the Preliminary hearing is essential to protect the indige accused against an erroneous or improper prosecution. First, the lawyer's skilled examination and cross-examination of witnesses may expose the fatal weaknesses in the State's case that may lead the Magistrate to refuse to bind the accused over. Second, in any event, the skilled interrogation of witnesses by an experienced lawyer can fashion a vital impeachment tool for use in cross-examination of witnesses at the trial, or preserve testimony favorable to the accused of a witness who does not appear at trial. Third, trained counsel can more effectively discover the case the State has against his client and make possible the preparation of a proper defense to meet that case at trial. Fourth, counsel can also be influential at the Preliminary hearing in making effective arguments for the accused on suc matters as the necessity for an earily psychiatric examination.

Defendant contends that his right to effective assistance of counsel during the Preliminary hearing was grossly inadequate and mis-represented.

Defendant Hall contends that he did not waive the Preliminary hearing on the Kidnapping indictment. This is well noted in the Preliminary transcript, and was also reported by the Lexington Progress on 8/24/-94, which stated: "Hinson waived the charge on behalf of his client after Hall refused to sign the waiver". (referred to hereinafter as defendants "Exhibit D").

Defendant contends that the alleged Kidnapping indictment was disproportionate to the alleged crime committed, and that the Kidnapping indictment would have not been bound over to the Grand Jury if a Preliminary hearing had been held.

Not only did this prejudice defendants right to effective assistance of counsel, the Kidnapping charge was later used as an enhancement tool to seek the death penalty by presentment of Woodall's motion against defendant Hall. (referred to hereinafter as defendants "Exhibit E").

While Hinson did impeach Byrd under cross-examination when he ask him about reading Hall's Miranda rights and about cutting off the custodial interrogation; however, counsel made no motions thereafter to dimiss the indictments and move the court to suppress the impeached testimony of Byrd. Thus, subjecting defendant Hall to self-imposed incrimination during both the Preliminary and Grand Jury process.

Under Mckledin v. State, the court held that the Tennessee Preliminar hearing is a "pretrial" type of arraignment where certain rights may be sacrificed or lost. 516 S.W.2d. 82.

Coleman details the vital necessity for the "guiding hand of counsel"

Every criminal lawyer "worth his salt" knows the overriding importanc and the manifest advantages of a Preliminary hearing. In fact the failure to exploit this golden opportunity to observe this manner, demeanor and apperance of the witness for the prosecution, to learn the precise details of the prosecutions case, and to engage in that happy event sometimes known as a "fishing expedition" would be an inexcusable dereliction of duty, in the majority of cases.

The Sixth Amendment guarantees to a criminal defendant the right to have the assistance of counsel for his defense. This means the effective assistance of counsel, and "requires the guidnig hand of counsel at every step in the proceedings. Powell v. Alabama, 287 U.S. 45, 53 S.Ct. 55, 77 L.Ed 158 (1932). This constitutional guarantee is not satisfied by mere formal appointment. Avery v. Alabama, 308 U.S. 444, 60 S.Ct. 321, 84 L.Ed 377 (1940).

EC6-1 CPR reads as follows:

Because of his vital role in the legal process, a lawyer should act with competence and proper care in representing clients. He should strive to become and remain proficient in his pratice and should acce employment only in matters which he is or intends to become competent to handle.

DR6-101 provides, in part:

A lawyer shall not:

(1) Handle a legal matter which he knows or should know that he is not competent to handle, without associating with him a lawyer who is competent to handle it.

Defendant contends that both Hinson and Stanfill knew they had no intentions to represent Him throughout the proceedings. Both Attorney's withdrew from defendants case not long after the Preliminary hearing. This type of practice would fall under the same footing as Avery v. Alabama. Id. (See Exhibit 6)

An inadequate performance by counsel renders a conviction void. Glasse v. United States, 315 U.S. 60, 62 S.Ct. 457, 86 L.Ed 680 (1942).

Defendant was subjected to prejudicial error when the alleged heresay statement of defendant was introduced by Agent Byrd, alleging defendat stated, "I did it" under custodial interrogation. Agent Byrd was then later impeached under cross-examination about reading defendant the Miranda confrontation act, i.e. defendants rights. The alleged heresay statement was then publicized in all the local papers surrounding the Henderson County. Hinson then failed to move this court to place a "gag order" on court officials from speaking with anyone from the media until Grand Jury proceedings could be had. See Sheppard v. Maxwell, 384 U.S. 333, 86 S.Ct. 1507, 16 L.Ed. 2d (1966). This prejudice defendant during a "critical stage" of the Preliminary hearing. forcing false adverse publicity upon the defendant, in violation of the due process clause of the 14th Amendment, commensurate with Beck v. Washington 369 U.S. 541-546 (1962) dictum.

This type of counseling sets forth a pattern of unhampered methods of abuse to a defendants constitutional rights to effective assistance of counsel. "What a status for future defendants".

5. DEFENDANT HALL WAS SUBJECTED TO PROSECUTORIAL MISCONDUCT DURING THE PRELIMINARY HEARING STAGE OF THESE PROCEEDINGS:

THE PROSECUTORS DUTY DURING THE PRELIMINARY HEARING.

When an accused alleges that he has been denied a constitutional right the accused must prove the constitutional deprivation by a preponderance of the evidence.

This standard of proof applies when it is alleged that the District Attorney General has suppressed exculpatory evidence, has failed to correct the known false testimony of a prosecution witness, or has used false evidence to convict the accused. Smith v. State, 757 S.W. 2d 14, 19 (Tenn Crim. App. 1988). Thus, Hall would be required under this theory to establish by the preponderance of the evidence, that the Attorney General used false testimony of Brian Byrd, and that the District Attorney used said false evidence to bound the defendant over to the Grand Jury.

The defendant finds that his constitutional rights were violated by the preponderance of evidence, by the inducement and allowance of known false testimony submitted to this court of Agent Byrd of the Tennessee Bureau of Investigation. The record of the Preliminary hearii clearly supports these findings.

In State v. Gaddis, 530 S.W.2d 64, 69 (Tenn. 1975), the late Mr. Justic Henry stated: "The days of trial by ambush are numbered. Rapidly fadin is what Dean Pound described as the 'sporting theory of justice".

In State v. Fields,7 Tenn. 140, 145-416 (1823), the court referred to the District Attorney General in the following manner:

> In a State case the people prosecute and the Attorney General is their officer; he is created by the constitution, acts in virtue of his commission, and on oath; and while he gards with viligance the interest of the State, it his bounden duty to see that such rights as the accussed shall not be prostrated, but that right and justice shall be done; he should not lay hold of an accident brought upon the accused by default not imputable to her. and turn such accident to the purpose of illegal conviction; for as the people, the members of whom such abuse might fall indiscriminately, would, for the safety of each, avert such a course; so should neither the Attorney General, acting for them, stand by and see toils spread to insnare any.

In Napue the United States Supreme Court, holding that the prosecution was required to correct false answer given by a prosecution witness, stated:

> This principle that a State may not knowningly use false evidence, including false testimony, to obtain a tainted conviction, implicit in any concept or ordered liberty, does not cease to apply merely because the false testimony goes only to the credibility of the witness. The jury's estimate of the truthfulness and reliability of a given witness may well be determinative of guilt or innoocence, and it is upon such subtle factors as the possible interest of the witness in testifying falsely that a defendants life or liberty may depend.

Berger was cited with approval in Judge v. State, 539 S.W.2d 340, 344 345 (Tenn. Crim. App.). The District Attorney General has an ethical duty to furnish an accussed with exculpatory evidence or favorable info mation, to correct false testimony given by a prosecution witness, and to refrain from using false evidence to convict an accussed. Tennessee Code of Professional Responsibility of the Criminal Lawyer, section 7. 17 (1987).

Ethical Consideration provides in part: 7-13:

> The responsibility of a public prosecutor differs from that of the usual advocate; his duty to seek justice, not merely to convict. With respect to evidence and witnesses, the prosecutor has responsibilities different from those of a lawyer in in private pratice; the prosecutor should make timely dis disclosure to the defense available evidence, known to him, that tends to negate the guilt of the accused, mitigate the degree of the offense, or reduce the punishment. Further, a prosecutor should not intentionally avoid pursuit of evidence merely because he believes it will damage the prosecutor's case or aid the accussed.

Thus, DR &-103 (B) provides: "A public prosecutor or other government lawyer in criminal litigation shall make timely disclosure to counsel for defendant, or to the defendant if he has no counsel, of the existence of evidence, known to the prosecutor or other government lawyer, that tends to negate the guilt of the accussed, mitigate the degree of the offense, or reduce the punishment. DR 7-109 (A) provides that a lawyer "shall not suppress any evidence that he or his client has a legal obligation to reveal or produce. See A.B.A. standards for Criminal Justice, The Prosecution Function, standard 3-3.11 (a).

EC 7-26 states that "[t]he law and disciplinary rules prohibit the use of fraudulent, false, or perjured testimony...."EC 7-27 states that a "lawyer shall not suppress any evidence that he or his client has a legal obligation to reveal or produce". Thus, DR 7-102 (A) (3) and (A) (4) provide that a lawyer should not "(3) [c]onceal or knowingly fail to disclose that which is required to reveal" or "(4) knowingly use perjured false testimony or false evidence.

In summary a District Attorney General has both a legal as well as an ethical duty to furnish the accussed with exculpatory evidence or favorable information; and has both a legal and ethical duty to refrain from suppressing such evidence, to correct the false testimony of a prosecution witness, and to refrain from using false evidence to convict the accussed.

The doctrine announced in Brady v. Maryland, extends to the statements of a prosecution witness that are material and favorable to the accusse McDowell v. Dixon, 858 F.2d 945 (4th Cir. 1988), cert. denied

489 U.S. 1033, 109 S.Ct. 1172, 103 L.Ed. 2d 230 (1989) (statement of victim); Chavis v. North Carolina, 637 F.2d. 213, 223 (4th Cir. 1980) (statement of key witness); Scurr v. Niccum, 620 F.2d 186 (8th Cir. 1980); See State v. Goodman, 643 S.W.2d 375, 379-380 (Tenn. Crim. App. 1982). It is irrelevant that the information contained in the statement can only be used to impeach the witness. United States v. Bagley, 473 U.S. 667, 105 S.Ct. 3375, 87 L.Ed 2d (1985).

It is a fundamental principle of law that an accussed has the right to cross-examine prosecution witnesses to impeach the credibility or establish the motive or prejudice of the witness. This includes a right to cross-examine a prosecution witness regarding any promises of leniency, promises to help the witness, or any other favorable treatment offered to the witness. See State v. Norris, 684 S.W.2d 650, 654 (Tenn. Crim. App. 1984).

It is a well established principle of law that the state's knowing use of false testimony to convict an accussed is violative of the right to a fair and impartial trial embodied in the Due Process of the Fourteent Amendment to the United States Constitution and article I, §§ 8 and 9 of the Tennessee Constitution. Pyle v. Kansas, 317 U.S. 213, 63 S.Ct. 177, L.Ed 2d 214 (1942).

When a state witness answers questions on either direct or cross-examination falsely, the District Attorney General, or his Assistant, has an affirmative duty to correct the false testimony. See Giglio v. United States, Napue v. Illinois, Blanton v. Blackburn, 944 F. Supp. at 900. ("it is the responisibility of the prosecution to correct the evidence); Hall v. State, 650 P.2d at 896 [d]ue process... imposes an affirmative duty upon the state to disclose false testimony which goes to the merits of the case or to the credibility of the witness. Whether the District Attorney General did or did not solicit the false testimon is irrelevant. United States v. Barham, 595 F.2d 231 (5th Cir. 1979).

However, if the prosecution fails to correct the false testimony of the witness, the accussed is denied due process of law guaranteed by the United States and Tennessee Constitution. Giglio, supra.

This rule applies when the false testimony is given in response to questions propounded by the defense counsel for the purpose of impeaching the witness. Giglio supra, Napue, supra; Campbell v. Reed, 594 F.2d (4th Cir. 1979).

Attorney General Woodall let false testimony be presented before the preliminary hearing in this cause, and then said testimony was presente to the Grand Jury to indict defendant Hall.

Despite Defendants objections (to defense counsel Hinson and Stanfill not to waive the Kidnapping charge), said charge was waived and later used the kidnapping as an underline felony as an enhancement tool to seek the death penalty against the defendant; the thefts indictment wer all so used for the same purpose by Woodall and was never introduced fo a Preliminary hearing. (see "Exhibit F, referred to hereinafter as defendants "Exhibit F"- part three (3) of Woodall's motion to seek the death penalty).

6. DEFENDANTS RIGHT TO MIRANDA WARNINGS AND RIGHT AGAINST SELF-IMPOSED INCRIMNIATION:

Defendants Miranda rights were not read to him during custodial interr-ogation thereby subjecting him to self-imposed incrimination. As incor-porated herein, Byrd was impeached about reading defendant his Miranda rights and was impeached during the Preliminary hearing about cutting off the custodial interrogation.

DIRECT EXAMINATION OF BYRD BY WOODALL:

J.W. (pg.5) Alright now. After he made that statement to you, I believe he did not know she was dead until the day before?

B.B. That is the statement he made to us.

J.W. I did it. I did it. Now after that what did you do?

B.B. We discussed and read the rights waiver, when through the sheet we down to the part where he would sign the rights waiver and give us a statement. He stated that he would not sign statement without counsel being present, so we terminated the interview at that point.

J.W. Alright so, after he allowed you to complete the Miranda informati he then ask for an Attorney, and you terminated the interview?

B.B. Correct.

J.W. Is that correct?

B.B. Correct.

J.W. What day was this?

B.B. This would have been on the 3rd, the day before the election.

BYRD UNDER CROSS-EXAMINATION BY ATTORNEY HINSON:

P.D. O.K. And of today date, three, two and half, three weeks later that individual has never been read his rights?

B.B. No, sir!!!.

Under direct examination by Woodall, Byrd also testified that he cut off custodial interrogation after defendant requested counsel; however, under cross-examination, Byrd was impeached and gave a different version.

P.D. (pg.9) Scrapes on the hands, you indicated that there were scrapes and scratches on the knuckles, fingers and hand. Was this on both hands

B.B. AH. To the best of my knowledge it was.

P.D. You took no pictures of that?(See: EXHIBIT C)

B.B. To my knowledge, I don't think we did, No, sir.

P.D. Did you ask defendant about that there?

B.B. Yes, sir!!!.

The controling question would then be... "was defendant prejudice by Byrd not reading the Miranda warning, and by not terminating the custodial interrogation". First, it cannot be inferred that defendant was not prejudice by the allowance of the false testimony. The false and perjured testimony was introduced to the Grand Jury and was later used as an enhancement tool (in-part) to seek the death penalty against defendant and used (in part)to return a true bill against Hall.

The Supreme Court, in a 5-4 decision, reversed a conviction. The majority Opinion by Justice Goldberg was highly critical of reliance upon confessions in general and interrogation of those without counsel in particular. "Agent Byrd also used the perjured testimony during the Grand Jury proceedings when testifying, and then used said testimony and played it out to the news-media finding defendant guilty of the charges before he had a fair and impartial Jury Trial".

The Escobedo majority asserted "that a system of criminal law enforcement which comes to depend on the confession" will, in the long run, be less reliable and more subject to abuses than a system which depends on extrinic evidence independently secured through skillful investigation. It seemed that the court was about to announce a broad right-to-counsel-at-the-station rule, for it was said that the pre-indictment interrogation was just as much as a "critical stage" as the Preliminary hearing in White v. Maryland, in that what happened at the interrogation could likewise "affect the whole trial"; and that Massiah was apposite because "no meaingful distinction can be drawn between interrogation of an accussed before and after formal indictment".

We, hold, therefore, that were, as here, [1] the investigation is no longer a general inquiry into an unsolved crime but has begun to focus on a particular suspect; [2] the suspect has been taken into police

custody; [3] the police carry out a process of interrogation that lends itself to eliciting incriminating statements; [4] the suspect has requested and been denied an opportunity to consult with an Attorney, and [5] the police have not effectively warned him of an absolute constitutional right to remain silent, the accussed has been denied "the assistance of counsel" in violation of the Sixth Amendment to the constitution as made obligatory upon the states by the Fourteenth Amendment to the constitution, and that no statement elicited by the police during the interrogation may be used againt him at trial.

In Miranda v. Arizona, 384 U.S. 436, 86 S.Ct. 1602, the Miranda rule can be summarized as follows:

[1] These rules are required to safeguard the priviledge against self incrimination, and thus must be followed in the absence of other procedures which are atleast as effective in apprising accussed persons of their right of silence and in assuring a continous opportunity to exercise it.

[2] These rules apply when the individual is first subjected to the police interrogation while in custody at the station or otherwise deprived of his freedom of action in any significent way, and not to general on the scene questioning of citizens in the fact finding proces or to volunteer statements of anykind.

[3] Without regard to his prior awareness of his rights, is a person is in custody is to be subjected to questioning, he must first be informed in clear and unequivical terms that he has the right to remain silent, so that the ignorant may learn of this right and so that pressures of the interrogation atmosphere will be overcome for those previously awar of the right.

[4] The above warning must be accompained by the explaination that anything said can and will be used against the individual in court, so as to ensure that the suspect fully understands the consequences or forgetting the priviledge.

[5] Because this is indispensbale to protection of the priviledge, the individual also must clearly be informed that he has the right to consult with a lawyer and to have the lawyer with him during interrogation, without regards to whether it appears that he is already aware of this right.

[6] The individual also must be warned that if he is indignet a lawyer will be appointed to represent him, for otherwise the above warning would be understood as meaning only that an individual may consult with a lawyer if has the funds to obtain one.

[7] The individual is always free to exercise the priviledge, and thus if he indicates in any manner, at anytime prior to or during questioning, that he wishes to remain silent, the interrogation must cease, and likewise, if he states he wants an Attorney, the interrogation muse cease until an Attorney is present.

[8] If a statement is obtained without the presence of an Attorney, a heavy burden rest on the Government to demonstrate that the defendant knowningly and intelligently waived the priviledge against self-imposed incrimination and his right to retained or appointed counsel, and such waiver may not be presumed from the individuals silence after warnings or from the fact that a confession was eventually obtained.

[9] Any statement obtained in violation of these rules may not be admitted into evidence, without regard to whether it is a confession or only an admission of part of an offense or whether it is inculpatory or alledgedly exculpatory.

[10] Likewise, exercise of the privledge may not be penalized, and thus the prosecution may not use at trial the fact that the defendant stood mute or claimed his privledge in the face of accusation.

7. CONCLUSION IN SUPPORT TO DISMISS:

Defendant contends that the trial court committed constitutional error to the following: 1) The court committed constitutional error when it did not ensure that defendant had the right to effective assistance of counsel; and that defendant had ample time to prepare and consult with attorney; 2) The court committed constitutional error when it allowed false and perjured testimony be presented to the Grand Jury and bind th defendant over on docket numbers 94-342; 3) The court committed constitutional error when it allowed the Attorney General to file a motion to seek the death penalty on underline felonies of Kidnapping and theft without first giving defendant a Preliminary hearing on the kidnapping and theft charges; 4) The court committed constitutional error when it failed to place a "gag order" on court officials to refrain them from speaking to the media about said charges after the indictment was returned consisting of false and perjured testimony by Agent Byrd; 5) The court committed constitutional error when it let false and perjured testimony be presented to the news-media after Byrd had been impeached during the Preliminary hearing, thus denying defendant his righ to a fair and impartial trial.

Wherefore, defendant contends that the bind over on docket numbers 94-342 should be abated and dismissed.

Respectfully Submitted,

Jon Hall - Defendant

Sworn to before me this 19th day of October 1995

Virginia Wilson

My Commission Expires: [illegible] 1999

Defendant Exhibit D

PRELIMINARY HEARING JON HALL

Judge J.B. Johnson= J.J.

James G. Woodall= J.W.

Public Defender= P.D.

Brian Byrd= B.B.

Date: November 14, 1994

Court Officer= C.O.

Transcribed by: Tonya Shavers

Courtroom Noise

J.J. Mr. Hall is charged with First Degree Murder and Kidnapping. How do you plea?

P.D. With all due respect your honor, the defendant respectfully enters a not guilty plea.

J.W. Your honor may I address to court. The defense council, the defense council stop participlying furthercist of the Preliminary Hearing, the defendant waived Kidnapping case to the Grand Jury for their consideration. We want to proceed on the probably cause (inaudible).

(inaudible)

J.W. State your name, please?

B.B. My name is Brian Byrd. I am an agent assigned to the Tennessee Bureau of Investigation. I work Violent Crimes in this area.

J.W. Did you have the case on a lady July 29, 1994, early morning hours of July 30, 1994 to be directed by one of your supervisors and assist the Henderson County Sheriff Department in determining place the Murder investigation.

B.B. That is correct. I was notified around 1:30 a.m..

J.W. And after you were notified did you go to a location in terms the 525 Pleasant Hill Road.

B.B. Initially, I went to the E.R. ah, out here at the hospital, to review Ms. Hall before I went out to 525 but I later go out there.

J.W. Alright, do you, we will take it in order of mention and then back up Ms. Hall.

B.B. O.K.

J.W. Did you then go to 525 Pleasant Hill Road, here in Henderson County, Tennessee.

B.B. Correct.

J.W. Now you had initially gone to the hospital here in Lexington, is that correct?

B.B. That's correct.

J.W. At that location did you view the remains of one Billie Hall

B.B. Yes, sir.

J.W. And at the time you observed Ms. Hall was she alive or

dead?

B.B. She was deceased.

J.W. And based upon your observation of the remains was there cause you take intensiveness to the cause of death?

B.B. Based on my experience.

P.D. Your honor object to him giving any type of opinion as to cause of death he does not qualify to do that.

J.W. The State of Tennessee a layman can give a medical opinion in a Police report and I think he is entitled.

P.D. (inaudible)

J.W. What did you observe on the remains of Ms. Hall that had you form an opinion as to the cause of death?

B.B. Basically, severe trauma to the head, there were other cuts and bruises to her body but mostly severe trauma to the head.

J.W. What type of trauma to the head did you observe?

B.B. It was, to be perfectly honest too difficult to ah to distinct anyone one particular blow. It just appeared there had been several blows, there was a great deal of swelling and blood ah to Ms. Hall. I could not determine what had caused the death other than just trauma.

J.W. Alright now. Who were advised to clear the remains of Ms. Hall who was found at 525 Pleasant Hill Road, prior to being transported to the hospital?

B.B. That's correct.

P.D. I'm going to have to object to that statement having hear say in it.

J.W. Now after you made the observation on the person Ms. Hall, you then went to 525?

B.B. That's correct.

J.W. Did you conduct what we call a crime scene search?

B.B. Yes, sir.

J.W. At that location?

B.B. Yes, sir.

J.W. And were you able to determine what (courtroom noise) anyone outside the premises of the 525 Pleasant Hill Road prior to officer being dispatched to that location.

B.B. That's correct. During the crime scene search it was noted to be a position outside the house where someone was standing prior to the incident and we noted by the fact that the telephone junction box was disconnected.

J.W. Alright. When you say the telephone junction box was disconnected what do you mean by that?

B.B. Apparently, someone had opened up the gray covering from the box and taken out the connecting wire that enabled the telephone to transmit from the resident to

any other location.

J.W. Did you at any time, you were conducting your crime scene go into the house?

B.B. Yes.

J.W. What was the phone, what was the status of the phone in the house?

B.B. I noted two phones, both of them off the hook.

J.W. O.K. Did you, were you able to get a dial tone on the phones?

B.B. No.

J.W. Could not.

B.B. No, sir.

J.W. Were not and why couldn't you?

B.B. Apparently, because they had been disconnected.

J.W. And you are talking about the junction box?

B.B. Correct.

J.W. Now were you able based upon the crime scene search state that the remains of Ms. Hall had already been removed when you were out there. Were you able to form an opinion based upon what you saw at the scene as to where the remains of Ms. Hall was?

B.B. Yes, sir.

B.B. There was a blood trail from the house to driveway and then from the driveway there was a drag trail from a pool of blood down to the pool and in the pool there was what appeared to be blood floating in the bottom of the pool.

J.W. Now was there anyone at the house, living at the house other than Ms. Hall?

B.B. There were four children living with Ms. Hall?

J.W. And did you and other officer interview these children?

B.B. Yes, sir.

J.W. And were they present at the time that the Police were called (Blank)

J.W. Did you also interview anyone in the neighborhood?

B.B. We also interviewed the neighbor, who live on the hill above the house.

J.W. Had you also had an occasion since this time to interview various member of the Hall family?

B.B. Yes, sir.

J.W. O.K. Now based upon the information you have received from the children and from the Hall family and neighbors did anyone know that investigation why they were warrant?

B.B. Yes, sir.

J.W. And the warrant would be for who?

B.B. The warrant was for Jon D. Hall.

J.W. And do you know at this time who Jon Hall was on the 29th of day of July?

B.B. Yes. sir.

J.W. And his relationship to Ms. Hall?

B.B. Yes, sir.

J.W. And what was that?

B.B. He was her estranged husband.

J.W. O.K. Now in had the occasion to professional come in contact with the individual who identified himself as Jon Hall?

B.B. Yes.

J.W. Is that individual present in the courtroom?

B.B. Yes, sir.

J.W. Can you point out that individual?

B.B. That man right there.

J.W. Let the record reflect that the witness has identified the defendant.

J.W. Now after obtained a warrant did you go anywhere with this warrant?

B.B. Yes, sir.

J.W. And what location did you go and who did you go with?

B.B. Deputy Rick Lunsford, Investigator Brent Booth and I traveled to Belton, Texas to bring Mr. Hall back to Tennessee after he waived extradition.

J.W. Alright now when you arrived at Belton, is that Bell County?

B.B. In Bell County, Texas.

J.W. Bell County Sheriff Department did you come in contact with an individual who was identified to you as Jon Hall?

B.B. That is correct.

J.W. Is that individual that you previously identified in this case?

B.B. That is correct.

J.W. Now at the time came initial contact with the defendant what location in Bell County Jail was he?

B.B. He was initially in their detention area and they brought him down to us in the detectives office and placed him into a small room adjoining one of their offices.

J.W. Alright now, when you initially had verbal contact as well as eye contact with the defendant what did you intend to do

B.B. The three of us were standing. investigator Booth was setting in the room with Mr. Hall as well as I, Deputy Lunsford was standing in the doorway. We were in the process of memorandizing Mr. Hall and telling him that he did not have to speak with us and at the point.

J.W. When you say memorandizing you were attempting to advise the defendant of certain Constitutional rights?

B.B. That is correct.

J.W. Did the, were you able to complete this?

B.B. No, sir.

J.W. Why were you not able to complete this?

B.B. Before I could even begin the sentences which state the memoranda act. He was very emotional. He broke down, began to cry and stated I did it. I did it. I am so sorry I just found out yesterday she was dead and I will tell anything you want to know.

J.W. Alright now. After he made that statement to you, I believe he did not know she was dead until the day before.

B.B. That is the statement he made to us.

J.W. I did it. I did it. Now after that what did you do?

B.B. We discussed and read the rights waiver, when through the sheet we got down to the part where he would sign the right waiver and give us a statement. He stated he would not an statement without counsel being present. so we terminated the interview at that point.

J.W. Alright so, after he allowed you to complete the memorandi, information, memoranda information he then ask attorney, and you terminated the interview.

B.B. Correct.

J.W. Is that correct?

B.B. Correct.

J.W. What day was this?

B.B. This would have been on the 3rd. the day before the Election.

J.W. August 3rd?

B.B. August 3rd, the day before the General Election.

J.W. When did you bring the defendant back to the state of Tennessee?

B.B. We brought him back during the early morning hours of August 4th around 4 a.m.

J.W. Alright, just one minute. In addition, to what the defendant told you, as you testify here today, were you able to observe the defendant's person.

B.B. Yes.

J.W. Did you observe any marks on his person or on his body, which were consistent with your previous testimony?

B.B. Yes, sir. There were a great deal of scraps to his hands, there was notable damage to his hands as if he had been accident or injury of some sort.

J.W. Now was there any injury to the palm of the defendant's hand?

B.B. No, sir.

J.W. Was the injury to the knuckles, fingers and thumbs?

B.B. It all appeared to be the back of the knuckles of the hands.

J.W. Would this be both right and left hand?

B.B. I believe I note it on both hands. Yes, sir.

J.W. Your witness.

P.D. How long have you been with T.B.I.?

B.B. Approximately 5 years.

P.D. How long have you been in the Homicide Division?

B.B. Approximately 2 years.

P.D. During that 2 years, how many cases have you investigated involving death?

B.B. Probably 20.

P.D. You indicated that you got called sometime back in July concerning possible death July 29th. Who did you receive that call from?

B.B. Special Agent John Mehr, he is my acting, or my current supervisor over West Tennessee.

P.D. And you identified the woman at around 1:30 a.m., as you came to the hospital. Is that correct, in Lexington?

B.B. Correct, in Lexington.

P.D. After you left the Hospital, you went to the alleged crime scene, which was the residence of Billie Hall.

B.B. That is correct.

P.D. And you noted, who was there when you got there?

B.B. Ah, there was a deputy there guarding the scene, ah I think it was the initial responding officer, but I can't remember his name.

P.D. Was there only one deputy?

B.B. To my knowledge. I can't be sure, I would not want to say without being sure.

P.D. Were the children there when you got there?

B.B. No.

P.D. Alright. Have you sat down and interviewed the children?

B.B. Yes.

P.D. Did you personally interview them?

B.B. Yes.

P.D. Do you think these children are hiding anything?

B.B. To my knowledge, they are still with their grandmother, their maternal grandmother.

P.D. Now you indicated after got to the crime scene, that you noticed a position where someone was standing, I think I quoted you correct?

B.B. That is correct.

P.D. How were you able to make that determination based where someone was standing?

B.B. The ground, the grass on the ground was mashed flat. It was not standing erect. There wasn't much grass but what was there was flat against the ground. Also, there was a number of twigs that looked like they had been twisted or broken as if someone was working with them with their hands laying on the ground.

P.D. Did you take pictures of this?

B.B. Yes.

P.D. You got it?

B.B. Yes, sir.

P.D. Do you have pictures of both the grass laying flat and of the twigs broken.

B.B. We kept the twigs.

P.D. And before you before you opened the junction box, was it dusted any type for fingerprints or any other.

B.B. The box was open, we did not open it. We did not dust it either.

P.D. Was it raining?

B.B. There was a heavy dew. Yes, sir. Was not raining.

P.D. The box was open?

B.B. Yes, sir.

P.D. No finger prints taken?

B.B. No, sir.

P.D. Now you came inside and indicated also there was two phones both of which were off the hook, is that correct?

B.B. Yes, sir.

P.D. And during your crime scene, you should head over this crime scene.

B.B. Basically, yes sir.

P.D. And it is your job as part of that, or in that position to preserve any evidence that is available.

B.B. That is correct.

P.D. Did you make the determination whether or not there any

evidence left on the property?

B.B. No, sir.

P.D. Did you serve or did you make planning for any type of finger prints anywhere else.

B.B. Yes. sir.

P.D. What did you look for finger prints on?

B.B. We took finger prints or solicited or sent various articles to the Tennessee Crime Lab for analysis so they could lift the prints.

P.D. What articles did you send?

B.B. We sent beer bottles and ash tray, and watch and other articles I could be I'd have to look at a list to tell you.

P.D. Several items?

B.B. Yes, sir.

P.D. You also indicated that I think you spoke to a neighbor, who was the neighbor?

B.B. I believe his name was Mr. McKinney.

P.D. Mr.?

B.B. Mr. McKinney.

P.D. (Tape messed up)

B.B. No, sir. Sheriff Department conducted that interview and advised me of that information.

P.D. Based on the that information you received and based upon the that testified that, you came to sought a warrant for the arrest of Jon Hall?

B.B. I believe that Investigator Booth took out the warrant, but we agreed to take out a warrant for Mr. Hall. Yes, sir.

P.D. O.K. Now while you were in Texas, you have also indicated that there was a statement made on behalf of Mr. Hall, I did it. I did it. Who was present when this statement was made?

B.B. Deputy Rick Lunsford, Investigator Brent Booth and I.

P.D. All three?

B.B. Yes, sir.

P.D. And between all three of you did anyone tape recorder?

B.B. No, sir.

P.D. Were type of camera to recording. anything what so ever at anytime?

B.B. Not at this time. I would probable write it up into an interview format but I have not dictated that yet.

P.D. And this statement was made back in the early hours of August 3rd or August 4th?

B.B. It was made approximately 3:00 or 4.00 p.m. on the

afternoon of the 3rd.

P.D. O.K. And of today date, three, two and half, three weeks later, that individual has never been read his rights.

B.B. No, sir.

P.D. Scrapes on the hand, you indicated that there was scrapes or scratches on the knuckles, fingers and hand. Was this on both hands?

B.B. Ah. To best of my knowledge it was.

P.D. Is there anything you have done in the past weeks that relates to the scrapes on top of the hand that preserves that?

B.B. No.

P.D. You took no pictures of that?

B.B. To my knowledge, I don't think we did. No, sir.

P.D. Did you ask the defendant about that there?

B.B. Yes, sir.

P.D. Nothing further.

J.W. You may step down. Your honor, Probable Cause Hearing that's all the State intends to put on feels as thought the State has carried the burden of proof.

P.D. Your honor, ah I am well aware of the probable cause, recently the time being permitted the defendants one who committed it. Ah, if the state show probable cause today, just barely. Ah, and I don't see any charges, the kidnapping has already agreed that is going to be bound over but your honor I think this particular individual. I am going to go ahead and close with my closing remarks, I ask that the court system set Mr. Hall a bound based upon the evidence presented today. It the States appearing burden to show probable cause, again my option is vague. Your honor, I believe Mr. Hall is being held without bond and your honor I would respectively ask this court to set a bond for Mr. Hall he is entitled to a bond. He is a resident of Henderson, Lexington, Henderson County, Tennessee your honor he has been a resident how long? Two years he has been a resident of Lexington and at any of that time he certainly has the judicial right for a bond to be set, with extra on the settlement.

J.W. Your honor, the state would oppose bond being set, this is a charge of Murder in the First Degree which is a potential capital in the State of Tennessee. Now Kidnapping Mr. Blake which obviously is very adamant, is a serious case too. I would feel like based upon those factors alone the bond should, there should be no bond set. I want to make that point.

P.D. Your honor, we have been called to sign this waiver. (court room noise).

P.D. Your honor, if the court pleases we would like to sign a waiver on the Kidnapping. If the court please I am going ahead at this point and waive that on his behalf. Your honor, court please I don't have any kind of written, find any kind of written medical evaluation. I am going to request that Mr. Hall ah, be allowed seek some type ah, some type of mental evaluation between

now and the time that this matter is be bound over to the Grand Jury. I think it is in the State best interest and I think it is the defendants best interest of whether or not. We present a order before to the court concerning that. Thank you.

J.J. The court going to hold action of the Grand Jury. Court going hold to Mr. Hall without a bond.

C.O. Charles D. Hall. (Court room noise)

C.O. Kenny Lyons. (Court room noise)

C.O. Lisa Cunningham (Court room noise)

Man accused of killing wife has hearing

← Continued from cover

tion with the July 29 killing of his wife, Billie Jo Hall, 29. He also is charged with kidnapping in connection with a stolen car that had a child in the back seat.

TBI agent testifies

Brian Byrd, a special agent with the Tennessee Bureau of Investigation, said he and two other investigators traveled Aug. 3 to Belton, Texas — where Hall fled after the incident.

When they questioned Hall Aug. 3, the defendant "was very emotional. He began to cry and he said, 'I did it. I did it. I'm so sorry. I'll tell you anything you need to know,'" agent Byrd said.

WHAT'S NEXT

John D. Hall's charges of first-degree murder and kidnapping will be heard by the Henderson County grand jury Oct. 3.

After reading Hall his rights, however, the defendant would not give police a statement about his wife's death, said Byrd, who was the only witness called Monday by District Attorney General Jerry Woodall.

Hall appeared belligerent and agitated during the 45-minute hearing Monday. At one point he refused to sign a form to waive his kidnapping charge to the grand jury. "I'm not signing nothing," Hall said to his attorney, Jack Hinson of the district public defender's office.

Words exchanged

As Hall, who was bound by handcuffs and leg shackles, left the courthouse, he yelled at the victim's sister, Donna Eskew, who was driving by.

"You find your gun, Donna," Hall yelled. Eskew screeched the brakes on her truck and yelled back, "Go to hell, John Hall."

Eskew told The Sun that Hall was referring to a small handgun she had bought her sister for her protection, and that Hall had taken it, she said.

During the hearing, Byrd described some of the evidence that indicated the fury of events that led to Billie Jo Hall's death.

"The telephone junction box had been disconnected. There was a blood trail to the driveway. At the driveway we found a pool of blood and a drag trail from the driveway to the pool," Byrd said. "There was what appeared to be blood at the bottom of the pool."

In his opinion, Billie Jo Hall died from "several blows to the head. There was a lot of blood and swelling," Byrd said.

Investigators also noticed marks on John Hall. He had a "great deal of scrapes on his hands. It all appeared to be on the knuckles on both hands," Byrd said.

Rwanda's orphans live in agony

← Continued from cover

thorities of the new Tutsi-led government.

Asked about his future, Matsiko bowed his head and said quietly, "I only want to be with people who will give me food."

The orphanage, 40 miles to arson and possession of marijuana following an incident in March.

Hall was fined $518, and sentenced to two jail terms of 11 months, 29 days. However, all jail time was suspended as long as he paid the fines. Hall made $50 payments in May, June and July.

Billie Jo Hall, 29, secured an

Billie Jo Hall's order of protection when Hall pleaded guilty to the two charges April 11.

However, Billie Jo Hall filed for a second order July 1. She wrote: "At our home, 525 Pleasant Hill Road, Lexington, he (Hall) assaulted and battered me." He also "beat me with a beer bottle, (and) threw me around causing broken ribs and

executive Director Lori said she could not comment on Hall's case because of client confidentiality.

Courts can convict people charged with domestic violence even without the victim's consent, "but most of the time, if (the courts) don't have the victim's cooperation, they don't want to deal with it," Viar said.

lives. Adoptions abroad have been ruled out.

At Ruhango, four British volunteers are providing clean water, relief agencies bring some food and Canadian U.N. peacekeepers have "adopted" the orphanage. The soldiers give up some of their own rations and on their time off have

Disease rampant

The rains have come, bringing pneumonia, and there is a constant chorus of hacking coughs. Inside, two dozen babies lie side by side under blankets. Other rooms shelter emaciated children suffering from malaria

around their eyes and mouths.

Monday, Aug. 22, 1994

FLORIDA:
Cash 3: 8-3-0
Play 4: 0-9-0-9
GEORGIA:
Cash 3: 4-5-3
ILLINOIS:
Pick Three-Midday: 2-0-6
Pick Three-Evening: 5-3-1
Pick Four-Midday: 4-2-7-4
Pick Four-Evening: 4-2-2-1

Great Falls	80
Hartford-Spgfld	76
Honolulu	90
Indianapolis	82
Jacksonville	87
Kansas City	88
Little Rock	
Los Angeles	
Louisville	
Memphis	
Miami Beach	
Midland	
Milwaukee	
Mpls-St Paul	
Nashville	
New Orleans	
New York City	
Okla. City	

WEST

Yesterday

Rain	
This month's rain	
This year's total	
Normal precipitation	
High temperature	
Normal high	
Record high	
Low temperature	
Normal low	
Record low	

River st

Pickwick	
Savannah	
Perryville	
Johnsonville	
Kentucky HW	
Kentucky TW	
(Feet above sea	

MICHAEL CHA
RICHARD A. SC
ROBERT M. BLAK
CATHERINE G. GA
M. BONDIE DEL
RUFUS FRIDAY
TERRY MCCAR
JUANITA MITC

"EXHIBIT C"

Belton Co. Texas Records

E. KAMMER III

SIGNATURE

TITLE Deputy Sheriff

ITEMS OF EVIDENCE SUBMITTED

CODES
LA - Lab Analysis
S - Safekeeping
FP - Finger Prints

ITEM NO.	QTY.	ITEM -- DESCRIPTION, WHERE FOUND, WHERE MARKED, HOW MARKED	CODE
1	1	SET OF CAR KEYS (TO STOLEN OLDSMOBILE TN LP# 234-CXS)	S
2	22	PHOTOGRAPHS OF JON DOUGLAS HALL'S INJURIES)	S

FILED
KENNY BARNES - CIRCUIT CT. CLERK
OCT 26 1995
BY _____ D.C.

ITEM NO.	DATE	RELEASED BY: ID #	RECEIVED BY: ID #	PURPOSE
1	7/30/99	E Kammer 2225	E Kammer 2225	Safekeeping

IN THE CIRCUIT COURT OF HENDERSON COUNTY, TENNESSEE
DIVISION I

STATE OF TENNESSEE	)	
	)	
VS.	)	NO. 94-342
	)	
JON DOUGLAS HALL	)	

NOTICE OF INTENT TO SEEK DEATH PENALTY AND SPECIFICATION OF AGGRAVATING CIRCUMSTANCES

Comes now the State of Tennessee and, pursuant to Rule 12.3(b), Tennessee Rule of Criminal Procedure, of intent to seek the death penalty in the above-referenced case. The State hereby specifies the following aggravating circumstances that the State intends to rely upon at the sentencing hearing:

1. The murder was especially heinous, atrocious, or cruel in that it involved torture or serious physical abuse beyond that necessary to produce death;

2. The murder was committed for the purpose of avoiding, interfering with, or preventing a lawful arrest or prosecution of the defendant or another;

3. The murder was committed while the defendant was engaged in committing, or was an accomplice in the commission of, or was attempting to commit, or was fleeing after committing or attempting to commit, and first degree murder, arson, rape, robbery, burglary, theft, kidnapping, aircraft piracy, or unlawful throwing, placing or discharging of a destructive device or bomb.

Defendant's Exhibit "F"

Respectfully submitted,

JAMES W. THOMPSON
ASSISTANT DISTRICT ATTORNEY
26TH JUDICIAL DISTRICT

JAMES G. WOODALL
DISTRICT ATTORNEY GENERAL
26TH JUDICIAL DISTRICT

CERTIFICATE OF SERVICE

I hereby certify that a true and exact copy of the foregoin has been mailed to Mr. Frankie Stanfill, 227 W. Baltimore St., Jackson, TN 38301 this the 15th day of December, 1994.

JAMES W. THOMPSON
ASSISTANT DISTRICT ATTORNEY
26TH JUDICIAL DISTRICT

IN THE CIRCUIT COURT OF HENDERSON COUNTY TENNESSEE

STATE OF TENNESSEE	)	
	)	
PLAINTIFF,	)	DOCKET NO. 94-342
	)	94-452
VS.	)	94-454
	)	
JON HALL	)	
	)	
DEFENDANT.	)	

ORDER ON MOTION TO WITHDRAW AS COUNSEL

A Motion has been filed and entered in the Henderson County Circuit Court Clerks office, by Frankie K. Stanfill, Attorney of Record for the Defendant, Jon Hall. A potential conflict of interest has arisen between the Law Offices of Tom Anderson, and the 26th Judicial District. Due to such potential conflict of interest, Frankie K. Stanfill is no longer employed as Assistant Public Defender for Henderson County. Another attorney for the 26th Judicial District from the Public Defenders office will be representing all indigent clients in Henderson County.

IT IS HEREBY ORDERED, ADJUDGED AND DECREED, that Frankie K. Stanfill shall be withdrawn as Attorney of Record for the Defendant, Jon Hall.

JUDGE WHIT LAFON

Exhibit 2 - Additional Ineffective Assistance of Counsel

JIM THOMPSON
ASSISTANT DISTRICT ATTORNEY

FRANKIE K. STANFILL
ASSISTANT PUBLIC DEFENDER

CERTIFICATE OF SERVICE

A true and exact copy of this Order on Motion has been sent by U.S. mail, postage paid, to Jim Thompson, Assistant District Attorney, P.O. Box 2825, Jackson, Tennessee, 38302-2825, this the 21st day of February, 1995

FRANKIE K. STANFILL

IN THE CIRCUIT COURT OF HENDERSON COUNTY, TENNESSEE

STATE OF TENNESSEE	)	
	)	
VS.	)	NO. 94-342, 94-452
	)	94-454
JON HALL	)	

STATE'S RESPONSE TO MOTION TO SUPPRESS DEFENDANT'S STATEMENT

Comes now the State of Tennessee by through the office of the District Attorney General, in response to the defendant's Motion to Suppress and states;

1. The defendant was properly mirandized.

2. The defendant voluntarily interrupted officers while being mirandized and confessed State v. Chambliss 632 S.W.2d 227; State v. Brown, 664 S.W.2d 318.

3. The State denies any violations under rule 5 of the Tennessee Rule of Criminal Procedure.

4. The State contends that all statements are lawful and admissible.

Respectfully Submitted:

ASSISTANT DISTRICT ATTORNEY
26TH JUDICIAL DISTRICT

CERTIFICATE OF SERVICE

I hereby certify that a true and exact copy of the foregoing has been mailed to Mr. Mike Mosier, Attorney at Law, P.O. Box 1623, 204 E. Baltimore, Jackson, TN 38302-1623 this the 30 day of October, 1995.

ASSISTANT DISTRICT ATTORNEY
DIVISION I

IN THE CIRCUIT COURT OF HENDERSON COUNTY, TENNESSEE

STATE OF TENNESSEE)
)
v.) No. 94-342
)
JON HALL)

STATE'S RESPONSE TO DEFENDANT'S PRO-SE MOTION

The defendant is represented by competent counsel and is not entitled to file Pro-Se Motions. All motions should be filed through defense counsel.

Respectfully submitted,

ASSISTANT DISTRICT ATTORNEY
26TH JUDICIAL DISTRICT

Certificate of Service

I hereby certify that I have mailed or delivered a true copy of the foregoing to Mr. Mike Mosier, Attorney at Law, P.O. Box 1623, 204 E. Baltimore St., Jackson, TN 38302-1623, and Mr. Jon Hall, R.M.S.I., Cockrill Bend, Nashville, TN 37209-1010 this 30 day of October, 1995.

ASSISTANT DISTRICT ATTORNEY
26th JUDICIAL DISTRICT

IN THE CIRCUIT COURT OF HENDERSON COUNTY, TENNESSEE

STATE OF TENNESSEE)
)
v.) No. 94-342,94-452
) 94-454
JON HALL)

MOTION TO DETERMINE EFFECTIVENESS OF COUNSEL

Comes now the State of Tennessee by and through the office of the District Attorney General in response to the defendant's Pro Se complaint regarding his counsel and moves this Honorable Court to determine the effectiveness of Counsel post-trial and in support the state would show the following, to-wit:

1. An over abundant number of motions have been filed by defense counsel.
2. Numerous communications have been made between the State and defense counsel to insure that justice is done in this cause.
3. Defense Counsel has discovered all State's evidence.
4. Defense Counsel has been in sufficient contact with the defendant to prepare its case.
5. Defense counsel has discussed this case with all known witnesses.
6. Defense counsel presented a legal and adequate defense.
7. Defense counsel made every effort to prevent improper evidense from being admitted.

Wherefore premises considered the State moves this Honorable Court to rule that defense counsel has been effective post-trial.

Respectfully submitted

ASSISTANT DISTRICT ATTORNEY

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing pleading was mailed to Mike Mosier P.O. Box 1623, 204 W. Baltimore Jackson, Tn 38302-1623, on or before the filing date via first class postage prepaid this the 2nd day of November, 1995.

IN THE CIRCUIT COURT OF HENDERSON COUNTY, TENNESSEE

STATE OF TENNESSEE)
)
v.) No. 94-342,94-452
) 94-454
JON HALL)

MOTION TO DETERMINE EFFECTIVENESS OF COUNSEL

Comes now the State of Tennessee by and through the office of the District Attorney General in response to the defendant's Pro Se complaint regarding his counsel and moves this Honorable Court to determine the effectiveness of Counsel pre-trial and in support the state would show the following, to-wit:

1. An over abundant number of motions have been filed by defense counsel.

2. Numerous communications have been made between the State and defense counsel to insure that justice is done in this cause.

3. Defense Counsel has discovered all State's evidence.

4. Defense Counsel has been in sufficient contact with the defendant to prepare its case.

5. Defense counsel has discussed this case with all known witnesses.

Wherefore premises considered the State moves this Honorable Court to rule that defense counsel has been effective pre-trial.

Respectfully submitted

ASSISTANT DISTRICT ATTORNEY

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing pleading was mailed to Mike Mosier P.O. Box 1623, 204 W. Baltimore Jackson, Tn 38302-1623, on or before the filing date via first class postage prepaid this the 2nd day of November, 1995.

IN THE CIRCUIT COURT FOR TWENTY-SIXTH JUDICIAL DISTRICT
HENDERSON COUNTY AT LEXINGTON, TENNESSEE
DIVISION I

STATE OF TENNESSEE)
)
V. : CRIM. NOS. 94-342, 94-452 and 94-454.
)
JON HALL)

FILED
KENNY CAVNESS - CIRCUIT CT. CLRK.
JAN 25 1996
BY DEPUTY CLERK

MOTION TO DISMISS ALL SUPRA INDICTMENTS

Comes now the defendant, Jon Hall, by and through himself, and moves this court to dismiss all supra indictments against him under Rule 12 (a), (1), of the Tennessee Rules of Criminal Procedures; In support of this motion, defendant will respectfully show forth this court the following:

1. BRIEFING OF THE PRESENTMENT AND INFORMATION OF THE PRELIMINARY.

On August 4th, 1994, defendant was extradicted from Belton County Texas to Henderson Conty Tennessee, to face charges of the following to-wit: First Degree Murder (1CT.), Theft of Property (2CT.), and Aggravated Kidnapping (1CT.). On or about the date of 9/7/94, defendant was indicted for Possesion of Implements for Escape. On or about 9/___ 1994, defendant was also charged with Vandalism (1CT).

On 8/22/1994, defendant was scheduled for a Preliminary hearing on docket number 94-342, (inter-alia).

From the dates of 8/4 to 8/22/1994, defendant never seen his appointed Attorney's until (5) minutes before the Preliminary hearing[1].

Defendant contends on the date of 8/22/1994, he was escorted to the Lexington Courthouse at approximately (9:00 A.M.). Defendant contends that he was placed in a holding cell awaiting said procedures, when he overheard Brent Booth (Prosecutor), discussing his case with (2) other men, inwhich was his appointed Attorney's Stanfill and Hinson.

Defendant contends that he was removed from said holding cell and introduced to said Attorney's. Defendant contends that Hinson ask him did he have (5.000.00) dollars to pay for an alleged Psychiatric examination. At which time the preliminary hearing was to be had. As

1. Both Attorney's, Jack Hinson and Frankie Stanfill later withdrew from the case after the Preliminary hearing.

noted, defendant contends that he had approximatley (5) minutes to preapre for the Preliminary hearing.

2. THE PRELIMINARY HEARING:

The effective assistance of counsel in this matter was a farce and a mockery. Defendant contends that he did not waive the Preliminary hearing on the Kidnapping charge, and contends that he repeatedly told Attorney's that he did not want to waive said hearing on the same. Defendant contends that this was all to no "avail".

There has also been a manifestation of injustice, malicious prosecution, denial access to the court, and denial to proper representation to adequately prepare for the Preliminary hearing, all leading to inflamed waiver of the Kidnapping indictment, and an abandonment to impeach certain evidence used and introduced by the State's witness, Brian Byrd for the Tennessee Bureau of Investigation. (See attached Preliminary hearing and News Articles, referred to hereinafter as defendants "Exhibit's A and B respectively).

The following colloquy took place at the Preliminary hearing that will substantiate defendants motion to dismiss, (in-part), verbatim:

J.J. Mr. Hall is charged with First Degree Murder and Kidnapping. How do you plea?

P.D. With all due respect your Honor, the defendant respectfully enters a not guilty plea.

J.W. Your Honor may I address the court. The defense counsil stop participlying furthercist of the Preliminary hearing, the defendant waived the Kidnapping case to the Grand Jury for their consideration. We want to proceed on the proably cause. (inaudible).

The transcript shows that Attorney Hinson never responded or objected to Woodall adressing the court.

(a) If defendant waived the Preliminary hearing on the Kidnapping indictment, why did defense Attorney enter into transcript a not guilty plea on the Kidnapping in the first place?

(b) If defendant did not waive the Preliminary hearing on the Kidnapping indictment, why then did Hinson not object to Woodall's objection that he did waive the Preliminary hearing?

(c) Had Hinson and Woodall discussed defendants case prior to the Preliminary hearing, without notice given to the defendant?

(d) Did Woodall and Hinson conspire against the defendant to expedite the Preliminary hearing at the lowest possible expense for the State?

(e) Was it mentioned during the Preliminary hearing that the alleged victim of the Kidnapping was attending his first day of school, and that the State did not want to disturb his attendance?

(f) Did the State really have pertinent evidence and information to bound the defendant over to the Grand Jury on the Aggravated Kidnapping?

3. THE EVIDENCE PRESENTED AT THE PRELIMINARY HEARING ON 94-342:

During the Preliminary hearing the following colloquy took place between Prosecutor Woodall and Agent Brian Byrd, verbatim:

J.W. (pg.5) Alright, just one minute. In addition, to what the defendant told you, as you testify here today, were you able to observe the defendnats person?

B.B. Yes.

J.W. Did you observe any marks on his person or on his body, which were consistent with your previous testimony?

B.B. (pg.6) Yes, sir. There were a great deal of scrapes to his hands there was notable damage to his hands as if he had been accident or injury of some sort.

J.W. Now was there any injury to the palm of the defendants hand?

B.B. No, sir.

J.W. Was the injury to the knuckles, fingers and thumbs?

B.B. It all appeared to be the back of the knuckles of the hands.

J.W. Would this be both right and left hand?

B.B. I believe I note it on both hands. Yes, sir.

CROSS-EXAMINATION OF BYRD BY DEFENSE ATTORNEY HINSON:

P.D. (pg.9) Scrapes on the hand, you indicated that there was scrapes or scratches on the knuckles, fingers and hand. Was this both hands?

B.B. Ah. To the best of my knowledge it was.

P.D. Is there anything you have done in the past weeks that relates to the scrapes on top of the hand that preserves that?

B.B. To my knowledge, I don't think we did. No, sir.

P.D. Did you ask defendant about that there?

B.B. Yes, sir.

Defendant contends that Byrd perjured himself on the stand about the supra evidence, pursuant to the scrapes and scratches on his hand. Byrd admitted into transcript that they never preserved any evidence to support the condition of defendants hands. Defendant contends tha Byrd testified that both his hands were bruised and swollen with cut and scrapes. Defendant contends that pictures were taken of his hand by the Belton County Sheriff's Department, and compared one hand to the other by use of a ruler, to show the amount of swelling to the hands. Defendant contends that only his right hand was swollen. (Belton County Texas reports will be referred to hereinafter as Defendants "Exhibit C").

Defendant contends that Byrd gained access to the Belton Texas repor and pictures and perjured himself during the Preliminary hearing.

Byrd also contradicted and impeached himself during the Preliminary hearing under direct and cross-examination about defendants rights being read to him:

DIRECT EXAMINATION OF BYRD BY WOODALL CONCERNING THE DEMISE OF DEFENDANTS WIFE, (BILLIE HALL):

J.W. (pg.5) Alright now. After he made that staement to you, I believe he did not know she was dead until the day before?

B.B. That is the statement he made to us.

J.W. I did it. I did it. Now after that what did you do?

B.B. We discussed and read the rights waiver, when through the sheet we got down to the part where he would sign the right waiver and give us a statement. He stated that he would not sign statement without counsel being present, so we terminated the interview at that point.

J.W. Alright so, after he allowed you to complete the Miranda information he then ask for an Attorney, and you terminated the interview?

B.B. Correct.

J.W. Is that correct?

B.B. Correct.

J.W. What day was this?

B.B. This would have been on the 3rd, the day before the election.

BYRD UNDER CROSS-EXAMINATION BY DEFENSE ATTORNEY HINSON:

P.D. O.K. And of today date, three, two and half, three weeks later, that individual has never been read his rights?

B.B. No, sir.

The false testimony speaks for itself and needs no argumentation. Byrd also perjured himself under oath at the Preliminary hearing wher stating under direct examination by Woodall: "after reading the defendant his rights, you terminated the interview"?

B.B. Correct.

However under cross-examination by Attorney Hinson, Byrd perjured himself about terminating the interview.

P.D. (pg.9) Scrapes on the hand, you indicated that there was scrapes or scratches on the knuckles, fingers and hand. Was this on both hands?

B.B. Ah. To the best of my knowledge it was

P.D. You took no pictures of that?

B.B. To my knowledge, I don't think we did. No, sir.

Perjured testimony: P.D. Did you ask defendant about there?

B.B. Yes, sir.

Woodall reiterated his question to Byrd three (3) times to make sure he knew he terminated the interview, and reiterated about what day it was to make sure he knew, inwhich, Byrd responded the day before the election, August 3rd. Byrd then also perjured himself by stating, "we did ask the defendant about the scrapes on his hand".

Defendant contends that Byrd questioned him x-amount of times during extradition from Belton Texas to Henderson County Tennessee.

4. MEMORANDUM OF LAW POINTS AND AUTHORITIES TO DISMISS ALL SUPRA INDICTMENTS IN THIS CAUSE:

RIGHT TO EFFECTIVE ASSISTANCE OF COUNSEL AND RIGHT TO PREPARE FOR THE DEFENSE:

Defendant was not provided with effective assistance of counsel, and did not have ample time to prepare for the Preliminary hearing. Defendant seen his Attorney's for only (5) minutes before the Prelimina. hearing. The Sixth Amendment guarantees to a criminal defendant the right to effective assistance of counsel at every step in the proceedings. U.S.C.A. Const. Amend. 6.

Counsel entering the case at the time of the defendants first appearance in court (usally Preliminary hearing) is likely to be confron with a drastic curtailment of the opportunity for an inital intervie Counsel's first task will often be to impress upon the court necessi for allowing him or her with sufficent time to discuss essential mat ers with the new client. In addition to whatever rights to a continuance and to legal representation at Preliminary hearing may be provided by State law, counsel should invoke the clients federal 6th and 14th Amendment, which guarantees the opportunity for lawyer-clie consultation in the course of judicial proceedings where there are tactial decisions to be made and stratedgies to be reviewed. Gedars v. United States, 425 U.S. 80, 88. If counsel is denied ample time f an adequate interview and investigation s/he should resist strongly as possible being pressed to proceed with the Preliminary hearing. I many jurisdictions, rights are not exercised and motions not made prior to or at Preliminary arraignment, that may be irrevocably lost.

The Constitution guarantees of Assistance of Counsel, and cannot not be satisifed by mere formal appointment. Avery v. Alabama, 308 U.S. 444, 446. It is therefore imperative to make a detailed factual reco of both the Attorney's unprepareavideness and justification for it. Morris v. Slappy, 461 U.S. (1983).

Counsel should make a clear request on behalf of his client for the assurance of adequate counsel throughout the case. As an Attorney, s/he has the obligation to accept the appointment, but s/he has neit the obligation nor the right to be used to create the apperance of representation without its reality, such as it is in this case agains defendnat Hall. Attorney's second job is to request adequate time to interview the defendant privately and to prepare for the arraignment. This is important at a Preliminary hearing, and Attorney's position should be the same. 425 U.S. 80 (1976).

As incorporated herein, defendant Hall seen his appointed Attorney's for only (5) minutes before the Preliminary hearing. Attorney's did not make any motions to post-pone the Preliminary hearing to adequately prepare for the hearing, and to elicit facts for the same. [A trial lawyer was ineffective when his only contact with a client was (15) minutes before the guilty plea. Butler v. State, 789 S.W.2d 898 (Tenn. 1990).

The ineffective assistance of counsel during the Preliminary hearing in this matter could be narrowed to the following: 1) Did the ineffective assistance of counsel prejudice the defendant; 2) Was the ineffective assistance of counsel harmless error.

The determination whether the hearing is a "critical stage" requirin the provision of counsel depends, as noted, upon an analysis "whethe potential substantial prejudice to defendants rights inheres in the confrontation and the ability of counsel to avoid that prejudice". United States v. Wade, supra, [388 U.S. 218] at 277, [87 S.Ct. 1926, at 1932] [18 L.Ed.2d [1149] at 1157]. Plainly the guiding hand of counsel at the Preliminary hearing is essential to protect the indig accused against an erroneous or improper prosecution. First, the lawyer's skilled examination and cross-examination of witnesses may expose the fatal weaknesses in the State's case that may lead the Magistrate to refuse to bind the accused over. Second, in any event, the skilled interrogation of witnesses by an experienced lawyer can fashion a vital impeachment tool for use in cross-examination of wit nesses at the trial, or preserve testimony favorable to the accused of a witness who does not appear at trial. Third, trained counsel ca more effectively discover the case the State has against his client and make possible the preparation of a proper defense to meet that case at trial. Fourth, counsel can also be influential at the Preliminary hearing in making effective arguments for the accused on su matters as the necessity for an earily psychiatric examination.

Defendant contends that his right to effective assistance of counsel during the Preliminary hearing was grossly inadequate and mis-represented.

Defendant Hall contends that he did not waive the Preliminary hearir on the Kidnapping indictment. This is well noted in the Preliminary transcript, and was also reported by the Lexington Progress on 8/24, 94, which stated: "Hinson waived the charge on behalf of his client after Hall refused to sign the waiver". (referred to hereinafter as defendants "Exhibit D").

Defendant contends that the alleged Kidnapping indictment was disproportionate to the alleged crime committed, and that the Kidnapping indictment would have not been bound over to the Grand Jury if a Preliminary hearing had been held.

Not only did this prejudice defendants right to effective assistance of counsel, the Kidnapping charge was later used as an enhancement tool to seek the death penalty by presentment of Woodall's motion against defendant Hall. (referred to hereinafter as defendants "Exhibit E").

While Hinson did impeach Byrd under cross-examination when he ask him about reading Hall's Miranda rights and about cutting off the custodial interrogation; however, counsel made no motions thereafter to dimiss the indictments and move the court to suppress the impeached testimony of Byrd. Thus, subjecting defendant Hall to self-imposed incrimination during both the Preliminary and Grand Jury process.

Under Mckledin v. State, the court held that the Tennessee Preliminar hearing is a "pretrial" type of arraignment where certain rights may be sacrificed or lost. 516 S.W.2d. 82.

Coleman details the vital necessity for the "guiding hand of counsel"

Every criminal lawyer "worth his salt" knows the overriding importanc and the manifest advantages of a Preliminary hearing. In fact the failure to exploit this golden opportunity to observe this manner, demeanor and apperance of the witness for the prosecution, to learn the precise details of the prosecutions case, and to engage in that happy event sometimes known as a "fishing expedition" would be an inexcusable dereliction of duty, in the majority of cases.

The Sixth Amendment guarantees to a criminal defendant the right to have the assistance of counsel for his defense. This means the effective assistance of counsel, and "requires the guidnig hand of counsel at every step in the proceedings. Powell v. Alabama, 287 U.S. 45, 53 S.Ct. 55, 77 L.Ed 158 (1932). This constitutional guarantee is not satisfied by mere formal appointment. Avery v. Alabama, 308 U.S. 444, 60 S.Ct. 321, 84 L.Ed 377 (1940).

EC6-1 CPR reads as follows:

Because of his vital role in the legal process, a lawyer should act with competence and proper care in representing clients. He should strive to become and remain proficient in his pratice and should acce employment only in matters which he is or intends tc become competent to handle.

DR6-101 provides, in part:

A lawyer shall not:

(1) Handle a legal matter which he knows or should know that he is not competent to handle, without associating with him a lawyer who is competent to handle it.

Defendant contends that both Hinson and Stanfill knew they had no intentions to represent Him throughout the proceedings. Both Attorney's withdrew from defendants case not long after the Preliminary hearing. This type of practice would fall under the same footing as Avery v. Alabama. Id. (See EXHIBIT 6)

An inadequate performance by counsel renders a conviction void. Glass v. United States, 315 U.S. 60, 62 S.Ct. 457, 86 L.Ed 680 (1942).

Defendant was subjected to prejudicial error when the alleged heresay statement of defendant was introduced by Agent Byrd, alleging defenda stated, "I did it" under custodial interrogation. Agent Byrd was then later impeached under cross-examination about reading defendant the Miranda confrontation act, i.e. defendants rights. The alleged heresa statement was then publicized in all the local papers surrounding the Henderson County. Hinson then failed to move this court to place a "gag order" on court officials from speaking with anyone from the media until Grand Jury proceedings could be had. See Sheppard v. Maxwell, 384 U.S. 333, 86 S.Ct. 1507, 16 L.Ed. 2d (1966). This prejudice defendant during a "critical stage" of the Preliminary hearing forcing false adverse publicity upon the defendant, in violation of the due process clause of the 14th Amendment, commensurate with Beck v. Washington 369 U.S. 541-546 (1962) dictum.

This type of counseling sets forth a pattern of unhampered methods of abuse to a defendants constitutional rights to effective assistance of counsel. "What a status for future defendants".

5. DEFENDANT HALL WAS SUBJECTED TO PROSECUTORIAL MISCONDUCT DURING THE PRELIMINARY HEARING STAGE OF THESE PROCEEDINGS:

THE PROSECUTORS DUTY DURING THE PRELIMINARY HEARING.

When an accused alleges that he has been denied a constitutional righ the accused must prove the constitutional deprivation by a preponderance of the evidence.

This standard of proof applies when it is alleged that the District Attorney General has suppressed exculpatory evidence, has failed to correct the known false testimony of a prosecution witness, or has used false evidence to convict the accused. Smith v. State, 757 S.W. 2d 14, 19 (Tenn Crim. App. 1988). Thus, Hall would be required under this theory to establish by the preponderance of the evidence, that the Attorney General used false testimony of Brian Byrd, and that the District Attorney used said false evidence to bound the defendant over to the Grand Jury.

The defendant finds that his constitutional rights were violated by the preponderance of evidence, by the inducement and allowance of known false testimony submitted to this court of Agent Byrd of the Tennessee Bureau of Investigation. The record of the Preliminary heari clearly supports these findings.

In State v. Gaddis, 530 S.W.2d 64, 69 (Tenn. 1975), the late Mr. Justi Henry stated: "The days of trial by ambush are numbered. Rapidly fadir is what Dean Pound described as the 'sporting theory of justice".

In State v. Fields,7 Tenn. 140, 145-416 (1823), the court referred to the District Attorney General in the following manner:

> In a State case the people prosecute and the Attorney General is their officer; he is created by the constitution, acts in virtue of his commission, and on oath; and while he gards with viligance the interest of the State, it his bounden duty to see that such rights as the accussed shall not be prostrated, but that right and justice shall be done; he should not lay hold of an accident brought upon the accused by default not imputable to her. and turn such accident to the purpose of illegal conviction; for as the people, the members of whom such abuse might fall indiscriminately, would, for the safety of each, avert such a course; so should neither the Attorney General, acting for them, stand by and see toils spread to insnare any.

In Napue the United States Supreme Court, holding that the prosecution was required to correct false answer given by a prosecution witness, stated:

> This principle that a State may not knowningly use false evidence, including false testimony, to obtain a tainted conviction, implicit in any concept or ordered liberty, does not cease to apply merely because the false testimony goes only to the credibility of the witness. The jury's estimate of the truthfulness and reliability of a given witness may well be determinative of guilt or innocence, and it is upon such subtle factors as the possible interest of the witness in testifying falsely that a defendants life or liberty may depend.

Berger was cited with approval in Judge v. State, 539 S.W.2d 340, 344 345 (Tenn. Crim. App.). The District Attorney General has an ethical duty to furnish an accussed with exculpatory evidence or favorable information, to correct false testimony given by a prosecution witness, and to refrain from using false evidence to convict an accussed. Tennessee Code of Professional Responsibility of the Criminal Lawyer, section 7. 17 (1987).

Ethical Consideration provides in part: 7-13:

> The responsibility of a public prosecutor differs from that of the usual advocate; his duty to seek justice, not merely to convict. With respect to evidence and witnesses, the prosecutor has responsibilities different from those of a lawyer in in private pratice; the prosecutor should make timely dis disclosure to the defense available evidence, known to him, that tends to negate the guilt of the accused, mitigate the degree of the offense, or reduce the punishment. Further, a prosecutor should not intentionally avoid pursuit of evidence merely because he believes it will damage the prosecutor's case or aid the accussed.

Thus, DR &-103 (B) provides: "A public prosecutor or other government lawyer in criminal litigation shall make timely disclosure to counsel for defendant, or to the defendant if he has no counsel, of the existence of evidence, known to the prosecutor or other government lawyer, that tends to negate the guilt of the accussed, mitigate the degree of the offense, or reduce the punishment. DR 7-109 (A) provides that a lawyer "shall not suppress any evidence that he or his client has a legal obligation to reveal or produce. See A.B.A. standards for Criminal Justice, The Prosecution Function, standard 3-3.11 (a).

EC 7-26 states that "[t]he law and disciplinary rules prohibit the use of fraudulent, false, or perjured testimony... "EC 7-27 states that a "lawyer shall not suppress any evidence that he or his client has a legal obligation to reveal or produce". Thus, DR 7-102 (A) (3) and (A) (4) provide that a lawyer should not "(3) [c]onceal or knowingly fail to disclose that which is required to reveal" or "(4) knowingly use perjured false testimony or false evidence.

In summary a District Attorney General has both a legal as well as an ethical duty to furnish the accussed with exculpatory evidence or favorable information; and has both a legal and ethical duty to refrain from suppressing such evidence, to correct the false testimony of a prosecution witness, and to refrain from using false evidence to convict the accussed.

The doctrine announced in Brady v. Maryland, extends to the statements of a prosecution witness that are material and favorable to the accusse McDowell v. Dixon, 858 F.2d 945 (4th Cir. 1988), cert. denied,

489 U.S. 1033, 109 S.Ct. 1172, 103 L.Ed. 2d 230 (1989) (statement of victim); Chavis v. North Carolina, 637 F.2d. 213, 223 (4th Cir. 1980) (statement of key witness); Scurr v. Niccum, 620 F.2d 186 (8th Cir. 1980); See State v. Goodman, 643 S.W.2d 375, 379-380 (Tenn. Crim. App. 1982). It is irrelevant that the information contained in the statemen can only be used to impeach the witness. United States v. Bagley, 473 U.S. 667, 105 S.Ct. 3375, 87 L.Ed 2d (1985).

It is a fundamental principle of law that an accussed has the right to cross-examine prosecution witnesses to impeach the credibility or establish the motive or prejudice of the witness. This includes a right t cross-examine a prosecution witness regarding any promises of leniency promises to help the witness, or any other favorable treatment offered to the witness. See State v. Norris, 684 S.W.2d 650, 654 (Tenn. Crim. App. 1984).

It is a well established principle of law that the state's knowing use of false testimony to convict an accussed is violative of the right to a fair and impartial trial embodied in the Due Process of the Fourteen Amendment to the United States Constitution and article I, §§ 8 and 9 of the Tennessee Constitution. Pyle v. Kansas, 317 U.S. 213, 63 S.Ct. 177, L.Ed 2d 214 (1942).

When a state witness answers questions on either direct or cross-examination falsely, the District Attorney General, or his Assistant, has an affirmative duty to correct the false testimony. See Giglio v. United States, Napue v. Illinois, Blanton v. Blackburn, 944 F. Supp. at 900. ("it is the responisibility of the prosecution to correct the evidence); Hall v. State, 650 P.2d at 896 [d]ue process... imposes an affirmative duty upon the state to disclose false testimony which goes to the merits of the case or to the credibility of the witness. Whether the District Attorney General did or did not solicit the false testimor is irrelevant. United States v. Barham, 595 F.2d 231 (5th Cir. 1979).

However, if the prosecution fails to correct the false testimony of the witness, the accussed is denied due process of law guaranteed by the United States and Tennessee Constitution. Giglio, supra.

This rule applies when the false testimony is given in response to questions propounded by the defense counsel for the purpose of impeaching the witness. Giglio supra, Napue, supra; Campbell v. Reed, 594 F.2d (4th Cir. 1979).

Attorney General Woodall let false testimony be presented before the preliminary hearing in this cause, and then said testimony was presente to the Grand Jury to indict defendant Hall.

Despite Defendants objections (to defense counsel Hinson and Stanfill not to waive the Kidnapping charge), said charge was waived and later used the kidnapping as an underline felony as an enhancement tool to seek the death penalty against the defendant; the thefts indictment we all so used for the same purpose by Woodall and was never introduced f a Preliminary hearing. (see "Exhibit F, referred to hereinafter as defendants "Exhibit F"- part three (3) of Woodall's motion to seek th death penalty).

6. DEFENDANTS RIGHT TO MIRANDA WARNINGS AND RIGHT AGAINST SELF-IMPOSED INCRIMNIATION:

Defendants Miranda rights were not read to him during custodial interr ogation thereby subjecting him to self-imposed incrimination. As incor porated herein, Byrd was impeached about reading defendant his Miranda rights and was impeached during the Preliminary hearing about cutting off the custodial interrogation.

DIRECT EXAMINATION OF BYRD BY WOODALL:

J.W. (pg.5) Alright now. After he made that statement to you, I believ he did not know she was dead until the day before?

B.B. That is the statement he made to us.

J.W. I did it. I did it. Now after that what did you do?

B.B. We discussed and read the rights waiver, when through the sheet we down to the part where he would sign the rights waiver and give us a statement. He stated that he would not sign statement without counse being present, so we terminated the interview at that point.

J.W. Alright so, after he allowed you to complete the Miranda informati he then ask for an Attorney, and you terminated the interview?

B.B. Correct.

J.W. Is that correct?

B.B. Correct.

J.W. What day was this?

B.B. This would have been on the 3rd, the day before the election.

BYRD UNDER CROSS-EXAMINATION BY ATTORNEY HINSON:

P.D. O.K. And of today date, three, two and half, three weeks later, that individual has never been read his rights?

B.B. No, sir!!!.

Under direct examination by Woodall, Byrd also testified that he cut off custodial interrogation after defendant requested counsel; however, under cross-examination, Byrd was impeached and gave a different version.

P.D. (pg.9) Scrapes on the hands, you indicated that there were scrape and scratches on the knuckles, fingers and hand. Was this on both hand

B.B. AH. To the best of my knowledge it was.

P.D. You took no pictures of that? (See: EXHIBIT C)

B.B. To my knowledge, I don't think we did, No, sir.

P.D. Did you ask defendant about that there?

B.B. Yes, sir!!!.

The controling question would then be... "was defendant prejudice by Byrd not reading the Miranda warning, and by not terminating the custodial interrogation". First, it cannot be inferred that defendant was not prejudice by the allowance of the false testimony. The false a perjured testimony was introduced to the Grand Jury and was later used as an enhancement tool (in-part) to seek the death penalty against defendant and used (in part)to return a true bill against Hall.

The Supreme Court, in a 5-4 decision, reversed a conviction. The major Opinion by Justice Goldberg was highly critical of reliance upon confessions in general and interrogation of those without counsel in particular. "Agent Byrd also used the perjured testimony during the Grand Jury proceedings when testifying, and then used said testimony and pla it out to the news-media finding defendant guilty of the charges before he had a fair and impartial Jury Trial".

The Escobedo majority asserted "that a system of criminal law enforcement which comes to depend on the confession" will, in the long run, be less reliable and more subject to abuses than a system which depends or extrinic evidence independently secured through skillful investigation. It seemed that the court was about to announce a broad right-to-counsel at-the-station rule, for it was said that the pre-indictment interrogation was just as much as a "critical stage" as the Preliminary heari in White v. Maryland, in that what happened at the interrogation could likewise "affect the whole trial"; and that Massiah was apposite becaus "no meaingful distinction can be drawn between interrogation of an accussed before and after formal indictment".

We, hold, therefore, that were, as here, [1] the investigation is no longer a general inquiry into an unsolved crime but has begun to focus on a particular suspect; [2] the suspect has been taken into police

custody; [3] the police carry out a process of interrogation that lends itself to eliciting incriminating statements; [4] the suspect ha requested and been denied an opportunity to consult with an Attorney, and [5] the police have not effectively warned him of an absolute constitutional right to remain silent, the accussed has been denied "the assistance of counsel" in violation of the Sixth Amendment to the constitution as made obligatory upon the states by the Fourteenth Amendment to the constitution, and that no statement elicited by the police during the interrogation may be used againt him at trial.

In Miranda v. Arizona, 384 U.S. 436, 86 S.Ct. 1602, the Miranda rule can be summarized as follows:

[1] These rules are required to safeguard the priviledge against self incrimination, and thus must be followed in the absence of other procedures which are atleast as effective in apprising accussed persons of their right of silence and in assuring a continous opportunity to exercise it.

[2] These rules apply when the individual is first subjected to the police interrogation while in custody at the station or otherwise deprived of his freedom of action in any significent way, and not to general on the scene questioning of citizens in the fact finding proce or to volunteer statements of anykind.

[3] Without regard to his prior awareness of his rights, is a person i in custody is to be subjected to questioning, he must first be informe in clear and unequivical terms that he has the right to remain silent, so that the ignorant may learn of this right and so that pressures of the interrogation atmosphere will be overcome for those previously awa of the right.

[4] The above warning must be accompained by the explaination that anything said can and will be used against the individual in court, so as to ensure that the suspect fully understands the consequences or forgetting the priviledge.

[5] Because this is indispensbale to protection of the priviledge, the individual also must clearly be informed that he has the right to consult with a lawyer and to have the lawyer with him during interrogation, without regards to whether it appears that he is already awar of this right.

[6] The individual also must be warned that if he is indignet a lawyer will be appointed to represent him, for otherwise the above warning would be understood as meaning only that an individual may consult wit a lawyer if has the funds to obtain one.

[7] The individual is always free to exercise the priviledge, and thus if he indicates in any manner, at anytime prior to or during questioning, that he wishes to remain silent, the interrogation must cease, and likewise, if he states he wants an Attorney, the interrogation muse cease until an Attorney is present.

[8] If a statement is obtained without the presence of an Attorney, a heavy burden rest on the Government to demonstrate that the defendant knowningly and intelligently waived the priviledge against self-imposed incrimination and his right to retained or appointed counsel, and such waiver may not be presumed from the individuals silence after warnings or from the fact that a confession was eventually obtained.

[9] Any statement obtained in violation of these rules may not be admitted into evidence, without regard to whether it is a confession or only an admission of part of an offense or whether it is inculpatory or alledgedly exculpatory.

[10] Likewise, exercise of the privledge may not be penalized, and thus the prosecution may not use at trial the fact that the defendant stood mute or claimed his privledge in the face of accusation.

7. CONCLUSION IN SUPPORT TO DISMISS:

Defendant contends that the trial court committed constitutional error to the following: 1) The court committed constitutional error when it did not ensure that defendant had the right to effective assistance of counsel: and that defendant had ample time to prepare and consult with attorney; 2) The court committed constitutional error when it allowed false and perjured testimony be presented to the Grand Jury and bind the defendant over on docket numbers 94-342; 3) The court committed constitutional error when it allowed the Attorney General to file a motion to seek the death penalty on underline felonies of Kidnapping and theft. without first giving defendant a Preliminary hearing on the kidnapping and theft charges; 4) The court committed constitutional error when it failed to place a "gag order" on court officials to refrain them from speaking to the media about said charges after the indictment was returned consisting of false and perjured testimony by Agent Byrd; 5) The court committed constitutional error when it let false and perjured testimony be presented to the news-media after Byrd had been impeached during the Preliminary hearing, thus denying defendant his right to a fair and impartial trial.

Wherefore, defendant contends that the bind over on docket numbers 94-342 should be abated and dismissed.

IN THE CIRCUIT COURT FOR TWENTY-SIXTH JUDICIAL DISTRICT
HENDERSON COUNTY AT LEXINGTON, TENNESSEE
DIVISION I

STATE OF TENNESSEE)
)
V. : CRIM. NOS. 94-342, 94-452 and 94-454.
)
JON HALL)

MOTION TO DISMISS ALL SUPRA INDICTMENTS

7. CONCLUSION IN SUPPORT TO DISMISS: cont.

see DF-MOT 4

MOTION TO SUPPRESS

COMES NOW the Defendant, JON HALL, by and through his attorneys, JON HALL and Carthel L. Smith, and moves the Court to suppress or determine prior to the trial, the admissibility of all searches and seizures, (1) confessions (2) or admissions, eyewitness identification and any other matters the admissibility of which should properly be determined by the Court prior to the introduction of said evidence or testimony to the jury. Further, to require the State to refrain from the mention of such evidence or testimony to the jury prior to its suppression or admissibility being determined.

(1), (2) (referred to hereinafter as "Exhibit (A) and (b) of DF-MOT 4 TRCP, Rule 3

Respectfully Submitted,

Jon Hall

Jon Hall - Defendant

SWORN TO ME THIS THE 19th day of January 1996.

NOTARY PUBLIC Rowena Tanner

MY COMMISSION EXPIRES September 18, 1999

CARTHEL L. SMITH, ATTORNEY AT LAW
85 East Church Street
Lexington, Tennessee 38351
(901) 968-2561

APPOINTED ATTORNEY FOR

HONORABLE WHIT LAFON
CIRCUIT COURT JUDGE
HENDERSON COUNTY
LEXINGTON TN 38351.

CERTIFICATE OF SERVICE

I hereby certify that I have mailed a true and exact copy of the foregoing Motion to Jim Thompson, Assistant District Attorney, P. O. Box 2825, Jackson, Tennessee 38302, this 19th day of Jan 1996.

JQP/jh
cc: file

DF-MOT 6

Defendant Exhibit 9

PRELIMINARY HEARING JON HALL

Judge J.B. Johnson= J.J.

James G. Woodall= J.W.

Public Defender= P.D.

Brian Byrd= B.B.

Date: November 14, 1994

Court Officer= C.O.

Transcribed by: Tonya Shavers

Courtroom Noise

J.J. Mr. Hall is charged with First Degree Murder and Kidnapping. How do you plea?

P.D. With all due respect your honor, the defendant respectfully enters a not guilty plea.

J.W. Your honor may I address to court. The defense council, the defense council stop participlying furthercist of the Preliminary Hearing, the defendant waived Kidnapping case to the Grand Jury for their consideration. We want to proceed on the probably cause (inaudible).

(inaudible)

J.W. State your name, please?

B.B. My name is Brian Byrd. I am an agent assigned to the Tennessee Bureau of Investigation. I work Violent Crimes in this area.

J.W. Did you have the case on a lady July 29, 1994, early morning hours of July 30, 1994 to be directed by one of your supervisors and assist the Henderson County Sheriff Department in determining place the Murder investigation.

B.B. That is correct. I was notified around 1:30 a.m..

J.W. And after you were notified did you go to a location in terms the 525 Pleasant Hill Road.

B.B. Initially, I went to the E.R. ah, out here at the hospital, to review Ms. Hall before I went out to 525 but I later go out there.

J.W. Alright, do you, we will take it in order of mention and then back up Ms. Hall.

B.B. O.K.

J.W. Did you then go to 525 Pleasant Hill Road, here in Henderson County, Tennessee.

B.B. Correct.

J.W. Now you had initially gone to the hospital here in Lexington, is that correct?

B.B. That's correct.

J.W. At that location did you view the remains of one Billie Hall.

B.B. Yes. sir.

J.W. And at the time you observed Ms. Hall was she alive or

dead?

B.B. She was deceased.

J.W. And based upon your observation of the remains was there cause you take intensiveness to the cause of death?

B.B. Based on my experience.

P.D. Your honor object to him giving any type of opinion as to cause of death he does not qualify to do that.

J.W. The State of Tennessee a layman can give a medical opinion in a Police report and I think he is entitled.

P.D. (inaudible)

J.W. What did you observe on the remains of Ms. Hall that had you form an opinion as to the cause of death?

B.B. Basically, severe trauma to the head, there were other cuts and bruises to her body but mostly severe trauma to the head.

J.W. What type of trauma to the head did you observe?

B.B. It was, to be perfectly honest too difficult to ah to distinct anyone one particular blow. It just appeared there had been several blows, there was a great deal of swelling and blood ah to Ms. Hall. I could not determine what had caused the death other than just trauma.

J.W. Alright now. Who were advised to clear the remains of Ms. Hall who was found at 525 Pleasant Hill Road, prior to being transported to the hospital?

B.B. That's correct.

P.D. I'm going to have to object to that statement having hear say in it.

J.W. Now after you made the observation on the person Ms. Hall, you then went to 525?

B.B. That's correct.

J.W. Did you conduct what we call a crime scene search?

B.B. Yes, sir.

J.W. At that location?

B.B. Yes, sir.

J.W. And were you able to determine what (courtroom noise) anyone outside the premises of the 525 Pleasant Hill Road prior to officer being dispatched to that location.

B.B. That's correct. During the crime scene search it was noted to be a position outside the house where someone was standing prior to the incident and we noted by the fact that the telephone junction box was disconnected.

J.W. Alright. When you say the telephone junction box was disconnected what do you mean by that?

B.B. Apparently, someone had opened up the gray covering from the box and taken out the connecting wire that inabled the telephone to transmit from the resident to

any other location.

J.W. Did you at any time, you were conducting your crime scene go into the house?

B.B. Yes.

J.W. What was the phone, what was the status of the phone in the house?

B.B. I noted two phones, both of them off the hook.

J.W. O.K. Did you, were you able to get a dial tone on the phones?

B.B. No.

J.W. Could not.

B.B. No, sir.

J.W. Were not and why couldn't you?

B.B. Apparently, because they had been disconnected.

J.W. And you are talking about the junction box?

B.B. Correct.

J.W. Now were you able based upon the crime scene search state that the remains of Ms. Hall had already been removed when you were out there. Were you able to form an opinion based upon what you saw at the scene as to where the remains of Ms. Hall was?

B.B. Yes, sir.

B.B. There was a blood trail from the house to driveway and then from the driveway there was a drag trail from a pool of blood down to the pool and in the pool there was what appeared to be blood floating in the bottom of the pool.

J.W. Now was there anyone at the house, living at the house other than Ms. Hall?

B.B. There were four children living with Ms. Hall?

J.W. And did you and other officer interview these children?

B.B. Yes, sir.

J.W. And were they present at the time that the Police were called (Blank)

J.W. Did you also interview anyone in the neighborhood?

B.B. We also interviewed the neighbor, who live on the hill above the house.

J.W. Had you also had an occasion since this time to interview various member of the Hall family?

B.B. Yes, sir.

J.W. O.K. Now based upon the information you have received from the children and from the Hall family and neighbors did anyone know that investigation why they were warrant?

B.B. Yes, sir.

J.W. And the warrant would be for who?

B.B. The warrant was for Jon D. Hall.

J.W. And do you know at this time who Jon Hall was on the 29th of day of July?

B.B. Yes, sir.

J.W. And his relationship to Ms. Hall?

B.B. Yes, sir.

J.W. And what was that?

B.B. He was her estranged husband.

J.W. O.K. Now in had the occasion to professional come in contact with the individual who identified himself as Jon Hall?

B.B. Yes.

J.W. Is that individual present in the courtroom?

B.B. Yes, sir.

J.W. Can you point out that individual?

B.B. That man right there.

J.W. Let the record reflect that the witness has identified the defendant.

J.W. Now after obtained a warrant did you go anywhere with this warrant?

B.B. Yes, sir.

J.W. And what location did you go and who did you go with?

B.B. Deputy Rick Lunsford, Investigator Brent Booth and I traveled to Belton, Texas to bring Mr. Hall back to Tennessee after he waived extradition.

J.W. Alright now when you arrived at Belton, is that Bell County?

B.B. In Bell County, Texas.

J.W. Bell County Sheriff Department did you come in contact with an individual who was identified to you as Jon Hall?

B.B. That is correct.

J.W. Is that individual that you previously identified in this case?

B.B. That is correct.

J.W. Now at the time came initial contact with the defendant what location in Bell County Jail was he?

B.B. He was initially in their detention area and they brought him down to us in the detectives office and placed him into a small room adjoining one of their offices.

J.W. Alright now, when you initially had verbal contact as well as eye contact with the defendant, what did you intend to do?

B.B. The three of us were standing, investigator Booth was setting in the room with Mr. Hall as well as I, Deputy Lunsford was standing in the doorway. We were in the process of memorandizing Mr. Hall and telling him that he did not have to speak with us and at the point.

J.W. When you say memorandizing you were attempting to advise the defendant of certain Constitutional rights?

B.B. That is correct.

J.W. Did the, were you able to complete this?

B.B. No, sir.

J.W. Why were you not able to complete this?

B.B. Before I could even begin the sentences which state the memoranda act. He was very emotional. He broke down, began to cry and stated I did it. I did it. I am so sorry I just found out yesterday she was dead and I will tell anything you want to know.

J.W. Alright now. After he made that statement to you, I believe he did not know she was dead until the day before.

B.B. That is the statement he made to us.

J.W. I did it. I did it. Now after that what did you do?

B.B. We discussed and read the rights waiver, when through the sheet we got down to the part where he would sign the right waiver and give us a statement. He stated he would not an statement without counsel being present, so we terminated the interview at that point.

J.W. Alright so, after he allowed you to complete the memorandi, information, memoranda information he then ask attorney, and you terminated the interview.

B.B. Correct.

J.W. Is that correct?

B.B. Correct.

J.W. What day was this?

B.B. This would have been on the 3rd, the day before the Election.

J.W. August 3rd?

B.B. August 3rd, the day before the General Election.

J.W. When did you bring the defendant back to the state of Tennessee?

B.B. We brought him back during the early morning hours of August 4th around 4 a.m.

J.W. Alright, just one minute. In addition, to what the defendant told you, as you testify here today, were you able to observe the defendant's person.

B.B. Yes.

J.W. Did you observe any marks on his person or on his body which were consistent with your previous testimony?

B.B. Yes.

P.D. Do you think these children are hiding anything?

B.B. To my knowledge, they are still with their grandmother, their maternal grandmother.

P.D. Now you indicated after got to the crime scene, that you noticed a position where someone was standing, I think I quoted you correct?

B.B. That is correct.

P.D. How were you able to make that determination based where someone was standing?

B.B. The ground, the grass on the ground was mashed flat, it was not standing erect. There wasn't much grass but what was there was flat against the ground. Also, there was a number of twigs that looked like they had been twisted or broken as if someone was working with them with their hands laying on the ground.

P.D. Did you take pictures of this?

B.B. Yes.

P.D. You got it?

B.B. Yes, sir.

P.D. Do you have pictures of both the grass laying flat and of the twigs broken.

B.B. We kept the twigs.

P.D. And before you before you opened the junction box, was it dusted any type for fingerprints or any other.

B.B. The box was open, we did not open it. We did not dust it either.

P.D. Was it raining?

B.B. There was a heavy dew. Yes, sir. Was not raining.

P.D. The box was open?

B.B. Yes, sir.

P.D. No finger prints taken?

B.B. No, sir.

P.D. Now you came inside and indicated also there was two phones both of which were off the hook, is that correct?

B.B. Yes, sir.

P.D. And during your crime scene, you should head over this crime scene.

B.B. Basically, yes sir.

P.D. And it is your job as part of that, or in that position to preserve any evidence that is available.

B.B. That is correct.

P.D. Did you make the determination whether or not there any

evidence left on the property?

B.B. No, sir.

P.D. Did you serve or did you make planning for any type of finger prints anywhere else.

B.B. Yes, sir.

P.D. What did you look for finger prints on?

B.B. We took finger prints or solicited or sent various articles to the Tennessee Crime Lab for analysis so they could lift the prints.

P.D. What articles did you send?

B.B. We sent beer bottles and ash tray, and watch and other articles I could be I'd have to look at a list to tell you.

P.D. Several items?

B.B. Yes, sir.

P.D. You also indicated that I think you spoke to a neighbor, who was the neighbor?

B.B. I believe his name was Mr. McKinney.

P.D. Mr.?

B.B. Mr. McKinney.

P.D. (Tape messed up)

B.B. No, sir. Sheriff Department conducted that interview and advised me of that information.

P.D. Based on the that information you received and based upon the that testified that, you came to sought a warrant for the arrest of Jon Hall?

B.B. I believe that Investigator Booth took out the warrant, but we agreed to take out a warrant for Mr. Hall. Yes, sir.

P.D. O.K. Now while you were in Texas, you have also indicated that there was a statement made on behalf of Mr. Hall, I did it. I did it. Who was present when this statement was made?

B.B. Deputy Rick Lunsford, Investigator Brent Booth and I.

P.D. All three?

B.B. Yes, sir.

P.D. And between all three of you did anyone tape recorder?

B.B. No, sir.

P.D. Were type of camera to recording, anything what so ever at anytime?

B.B. Not at this time, I would probable write it up into an interview format but I have not dictated that yet.

P.D. And this statement was made back in the early hours of August 3rd or August 4th?

B.B. It was made approximately 3:30 or 4:00 p.m. in the

afternoon of the 3rd.

P.D. O.K. And of today date, three, two and half, three weeks later, that individual has never been read his rights.

B.B. No, sir.

P.D. Scrapes on the hand, you indicated that there was scrapes or scratches on the knuckles, fingers and hand. Was this on both hands?

B.B. Ah. To best of my knowledge it was.

P.D. Is there anything you have done in the past weeks that relates to the scrapes on top of the hand that preserves that?

B.B. No.

P.D. You took no pictures of that?

B.B. To my knowledge, I don't think we did. No, sir.

P.D. Did you ask the defendant about that there?

B.B. Yes, sir.

P.D. Nothing further:

J.W. You may step down. Your honor, Probable Cause Hearing that's all the State intends to put on feels as thought the State has carried the burden of proof.

P.D. Your honor, ah I am well aware of the probable cause, recently the time being permitted the defendants one who committed it. Ah, if the state show probable cause today, just barely. Ah, and I don't see any charges, the kidnapping has already agreed that is going to be bound over but your honor I think this particular individual. I am going to go ahead and close with my closing remarks, I ask that the court system set Mr. Hall a bound based upon the evidence presented today. It the States appearing burden to show probable cause, again my option is vague. Your honor, I believe Mr. Hall is being held without bond and your honor I would respectively ask this court to set a bond for Mr. Hall he is entitled to a bond. He is a resident of Henderson, Lexington, Henderson County, Tennessee your honor he has been a resident how long? Two years he has been a resident of Lexington and at any of that time he certainly has the judicial right for a bond to be set, with extra on the settlement.

J.W. Your honor, the state would oppose bond being set, this is a charge of Murder in the First Degree which is a potential capital in the State of Tennessee. Now Kidnapping Mr. Blake which obviously is very adamant, is a serious case too. I would feel like based upon those factors alone the bond should, there should be no bond set, I want to make that point.

P.D. Your honor, we have been called to sign this waiver, (court room noise).

P.D. Your honor, if the court pleases we would like to sign a waiver on the Kidnapping. If the court please I am going ahead at this point and waive that on his behalf. Your honor, court please I don't have any kind of written, find any kind of written medical evaluation, I am going to request that Mr. Hall ah, be allowed seek some type ah, some type of mental evaluation between

now and the time that this matter is be bound over to the Grand Jury. I think it is in the State best interest and I think it is the defendants best interest of whether or not. We present a order before to the court concerning that. Thank you.

J.J. The court going to hold action of the Grand Jury. Court going hold to Mr. Hall without a bond.

C.O. Charles D. Hall. (Court room noise)

C.O. Kenny Lyons. (Court room noise)

C.O. Lisa Cunningham (Court room noise)

FILED
KENNY CAVNESS - CIRCUIT CT. CLERK.
JAN 2 5 1996
BY____________
DEPUTY CLERK

Mr. Everett: [illegible] ... The kidnapping consisted of [illegible] taking a couple's car. When he [illegible] a small boy of 12 yrs. old or so was lying [illegible] discovered the kid in the car in the back, [illegible]

lence involving John Douglas Hall and the wife he's charged with killing was well-known to Henderson County Sheriff Charles Woods.

And while Woods regrets Billie Jo Hall's brutal death, he doesn't know how the sheriff's department could have prevented it.

"We don't have the resources.

... to arson and possession of marijuana following an incident in March.

Hall was fined $518, and sentenced to two jail terms of 11 months, 29 days. However, all jail time was suspended as long as he paid the fines. Hall made $50 payments in May, June and July.

Billie Jo Hall, 29, secured an ... Billie Jo Hall's order of protection when Hall pleaded guilty to the two charges April 11.

However, Billie Jo Hall filed for a second order July 1. She wrote: "At our home, 525 Pleasant Hill Road, Lexington, he (Hall) assaulted and battered me." He also "beat me with a beer bottle, (and) threw me around causing broken ribs and ...

... Executive Director Lori Viar said she could not comment on Hall's case because of client confidentiality.

Courts can convict people charged with domestic violence even without the victim's consent, "but most of the time, if (the courts) don't have the victim's cooperation, they don't want to deal with it," Viar said.

Due Process clause XIV Amend. Restriction on Service of Grand Jury, who have been prejudiced against Defendant through adverse newspaper publicity & like. See: Beck v. Washington, 369 U.S. 541-546 (1962) Dicta cf.

Man accused of killing wife has hearing

*EXHIBIT B And D

➤ Continued from cover

tion with the July 29 killing of his wife, Billie Jo Hall, 29. He also is charged with kidnapping in connection with a stolen car that had a child in the back seat.

TBI agent testifies

Brian Byrd, a special agent with the Tennessee Bureau of Investigation, said he and two other investigators traveled Aug. 3 to Belton, Texas — where Hall fled after the incident.

When they questioned Hall Aug. 3, the defendant "was very emotional. He began to cry and he said, 'I did it. I did it. I'm so sorry. I'll tell you anything you need to know,'" agent Byrd said.

WHAT'S NEXT

John D. Hall's charges of first-degree murder and kidnapping will be heard by the Henderson County grand jury Oct. 3.

After reading Hall his rights, however, the defendant would not give police a statement about his wife's death, said Byrd, who was the only witness called Monday by District Attorney General Jerry Woodall.

Hall appeared belligerent and agitated during the 45-minute hearing Monday. At one point he refused to sign a form to waive his kidnapping charge to the grand jury. "I'm not signing nothing," Hall said to his attorney, Jack Hinson of the district public defender's office. kidnap preliminary waive

Words exchanged

As Hall, who was bound by handcuffs and leg shackles, left the courthouse, he yelled at the victim's sister, Donna Eskew, who was driving by.

"You and your gun, Donna," Hall yelled. Eskew screeched the brakes on her truck and yelled back, "Go to hell, John Hall."

Eskew told The Sun that Hall was referring to a small handgun she had bought her sister for her protection, and that Hall had taken it, she said.

During the hearing, Byrd described some of the evidence that indicated the fury of events that led to Billie Jo Hall's death.

"The telephone junction box had been disconnected. There was a blood trail to the driveway. At the driveway we found a pool of blood and a drag trail from the driveway to the pool," Byrd said. "There was what appeared to be blood at the bottom of the pool."

In his opinion, Billie Jo Hall died from "several blows to the head. There was a lot of blood and swelling," Byrd said.

Investigators also noticed marks on John Hall. He had a "great deal of scrapes on his hands. It all appeared to be on the knuckles on both hands," Byrd said.

Rwanda's orphans live in agony

➤ Continued from cover

thorities of the new Tutsi-led government.

Asked about his future, Matsiko bowed his head and said quietly, "I only want to be with people who will give me food."

The orphanage, 40 miles southwest of the capital Kigali, ...

tives. Adoptions abroad have been ruled out.

At Ruhango, four British volunteers are providing clean water, relief agencies bring some food and Canadian U.N. peacekeepers have "adopted" the orphanage. The soldiers give up ... of their own rations ... their time off have sealed ... and cleaned ...

around their eyes and mouths.

Disease rampant

The rains have come, bringing pneumonia, and there is a constant chorus of hacking coughs inside. Two dozen babies lie side by side under blankets. Other rooms shelter emaciated children suffering from malaria ...

Monday, Aug. 22, 1994
FLORIDA:
Cash 3: 0-3-0
Play 4: 0-9-0-9
GEORGIA:
Cash 3: 4-5 3
ILLINOIS:
Pick Three-Midday: 2-0 6
Pick Three Evening: 5
Pick Four-Midday: 4-2

Great Falls
Hartford-Sp
Honolulu
Indianapolis
Jacksonville
Kansas City
Little Rock
Los Angeles
Louisville
Memphis
Miami Beach
Midland
Milwaukee
Mpls-St Paul
Nashville
New Orleans
New York C
Okla. City

WES
Yesterday
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High tempera
Normal high
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Normal low
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River sta
Pickwick
Savannah
Perryville
Johnsonville
Kentucky HW
Kentucky TW
(Feet above ...

MICHAEL CH
RICHARD A.
ROBERT M.
CATHERINE
M. HONOLE
RUFUS FIND
TERRY MCCA
JUANITA MI

"EXHIBIT C"

Belton Co. Texas Records

C. RAMIREZ III
SIGNATURE
TITLE Deputy Sheriff

ITEMS OF EVIDENCE SUBMITTED

CODES
LA - Lab Analysis
S - Safekeeping
FP - Finger Prints

ITEM NO.	QTY.	ITEM – DESCRIPTION, WHERE FOUND, WHERE MARKED, HOW MARKED	CODE
1	1	SET OF CAR KEYS (TO STOLEN OLDSMOBILE TN LP# 234-CXS)	S
2	22	PHOTOGRAPHS OF JON DOUGLAS HALL'S INJURIES)	S

ITEM NO.	DATE	RELEASED BY: ID #	RECEIVED BY: ID #	PURPOSE
1	7/30/90	[signature] 2225	[signature] 2225	Safekeeping

IN THE CIRCUIT COURT OF HENDERSON COUNTY, TENNESSEE
DIVISION I

STATE OF TENNESSEE)
)
VS.) NO. 94-342
)
JON DOUGLAS HALL)

NOTICE OF INTENT TO SEEK DEATH PENALTY AND SPECIFICATION OF AGGRAVATING CIRCUMSTANCES

Comes now the State of Tennessee and, pursuant to Rule 12.3(b), Tennessee Rule of Criminal Procedure, of intent to seek the death penalty in the above-referenced case. The State hereby specifies the following aggravating circumstances that the State intends to rely upon at the sentencing hearing:

1. The murder was especially heinous, atrocious, or cruel in that it involved torture or serious physical abuse beyond that necessary to produce death;

2. The murder was committed for the purpose of avoiding, interfering with, or preventing a lawful arrest or prosecution of the defendant or another;

3. The murder was committed while the defendant was engaged in committing, or was an accomplice in the commission of, or was attempting to commit, or was fleeing after committing or attempting to commit, and first degree murder, arson, rape, robbery, burglary, theft, kidnapping, aircraft piracy, or unlawful throwing, placing or discharging of a destructive device or bomb.

Defendant "E" it E" And F"

Respectfully submitted,

JAMES W. THOMPSON
ASSISTANT DISTRICT ATTORNEY
26TH JUDICIAL DISTRICT

JAMES G. WOODALL
DISTRICT ATTORNEY GENERAL
26TH JUDICIAL DISTRICT

CERTIFICATE OF SERVICE

I hereby certify that a true and exact copy of the foregoin has been mailed to Mr. Frankie Stanfill, 227 W. Baltimore St., Jackson, TN 38301 this the 15th day of December, 1994.

JAMES W. THOMPSON
ASSISTANT DISTRICT ATTORNEY
26TH JUDICIAL DISTRICT

IN THE CIRCUIT COURT OF HENDERSON COUNTY TENNESSEE

STATE OF TENNESSEE PLAINTIFF, VS. JON HALL DEFENDANT.	)	DOCKET NO. 94-342 94-452 94-454

ORDER ON MOTION TO WITHDRAW AS COUNSEL

A Motion has been filed and entered in the Henderson County Circuit Court Clerks office, by Frankie K. Stanfill, Attorney of Record for the Defendant, Jon Hall. A potential conflict of interest has arisen between the Law Offices of Tom Anderson, and the 26th Judicial District. Due to such potential conflict of interest, Frankie K. Stanfill is no longer employed as Assistant Public Defender for Henderson County. Another attorney for the 26th Judicial District from the Public Defenders office will be representing all indigent clients in Henderson County.

IT IS HEREBY ORDERED, ADJUDGED AND DECREED, that Frankie K. Stanfill shall be withdrawn as Attorney of Record for the Defendant, Jon Hall.

JUDGE WHIT LAFON

Exhibit 2 - Additional Ineffective Assistance of Counsel

JIM THOMPSON
ASSISTANT DISTRICT ATTORNEY

FRANKIE K. STANFILL
ASSISTANT PUBLIC DEFENDER

CERTIFICATE OF SERVICE

A true and exact copy of this Order on Motion has been sent by U.S. mail, postage paid, to Jim Thompson, Assistant District Attorney, P.O. Box 2825, Jackson, Tennessee, 38302-2825, this the 2/st day of February, 1995

FRANKIE K. STANFILL

IN THE CIRCUIT COURT FOR TWENTY-SIXTH JUDICIAL DISTRICT
HENDERSON COUNTY AT LEXINGTON, TENNESSEE
DIVISION I

FILED
HENDERSON COUNTY CIRCUIT CT. C
JAN 25 1996
DEPUTY CLERK

STATE OF TENNESSEE)
)
V. : CRIM. NOS. 94-342, 94-452 and 94-454.
)
JON HALL)

WITHDRAWL OF COUNSEL - REPLACEMENT BY COURT

Comes now the Petitioner/Defendant, Jon Hall, and respectfully moves this Court for "WITHDRAWL OF COUNSEL" under T.C.A. 40-14-104; and request this Court to dismiss Mike Mosier from his defense in this matter;

In support of this motion, defendant will show this court the following:

(a) There is a conflict of interest between the defendant and counsel's as to their representation of this defendant; FOR the following an just reason:

(b) Defendant contends that his counsel's are not representing him zealously; They are not keeping defendant reasonably informed of the status of the case. DR 7-101 (A) (1), (2), (3), (4).

In support of this motion, defendant will show this court the following:

SEE:

MOSIER & MORRIS, P.A.
ATTORNEYS AT LAW
204 WEST BALTIMORE
P.O. BOX 1623
JACKSON, TENNESSEE 38302-1623
(901) 424-6616

MIKE MOSIER J. COLIN MORRIS

November 22, 1995

Lynne D. Zager, Ph.D.
Psychological Services
68 Timberlake Drive
Jackson, Tennessee 38305

Dear Lynne: It cannot be inferred that defendant's intention was the same as his father's in 1969 when Defendant began Kindergarten OR THAT DEFENDANT WITNESSED OR copied ALLEDGED ACTS,

★[NOTE: DONT FORGET MONEY ORDER] for P Hall

SEE also:

MITIGATION ASSESSMENT
for
JON DOUGLAS HALL

by

Ann Charvat, Ph.D.
The Capital Case Resource Center of Tennessee
January 20, 1994

DF-MOT 1

which is not a factual record. see TENN. PRACTICE RAYBIN SERIES Vol. 11 Ch. § 38.90

IN THE CIRCUIT COURT FOR TWENTY-SIXTH JUDICIAL DISTRICT
HENDERSON COUNTY AT LEXINGTON, TENNESSEE
DIVISION I

STATE OF TENNESSEE)
)
V. : CRIM. NOS. 94-342, 94-452 and 94-454.
)
JON HALL)

MEMORANDUM OF LAW POINTS AND AUTHORITIES

JON Hall #238941
7475 Cockrill Bend Ind. Rd.
NASHville Tenn. 37209-1010

RE: DISMISSAL / PRO-SE w/counsel State v. BurkHart 541 S.W2d 3

Dear Sirs, / THE HONORABLE WHIT LaFon

I AM writing to you on behalf My Pro-Se "MoTion To Dismiss" Filed in Henderson County Circuit Court 10/27/95, ALong with a "MoTion To Leave To File more motions" That was overuled by Circuit Court Judge whit LaFon. Because I was represented by Competent attorneys.

I ASk That This Court Re-evalvate its position in this Matter. Because, THE competent attorneys That Have Represented Me since Aug. 22, 1994 TO DATE. ALL SIX ATTORNEYS Have Failed To Preserve My CONSTITUTIONAL Rights From The very begining of these proceedings.

I'm Tired OF suing attorneys, etc. To Protect My Constitutional Rights, Therefore I ask that you Hear my pro-se MoTions and List Me as Co-counsel Pursuant to State v. BurkHart 541 S.W. 2d at 361. and to Support My Claims OF "Exceptional Circumstances" I'm prepared to Show You That, I've Been Held on an "ILLegal Arrest" For Sixteen Months, in violation OF The Fourth Amendment. See: Heury VS. united States, 361 U.S. 98, 80 S.Ct. 168, 4 L.Ed. 2d 134 (1959)

ON. Aug. 3, 1994 I was arrested in Belton Texas and Had a preliminary arraignment on Aug. 22, 1994. THE Arrest warrants were Listed as 2300 and 2301. Supported by an affidavit in violation OF Tenn. R. Crim. P. Rule 3 citing the case of Spinelli vs. united States 393 U.S. 410 (1969) which States:

> A Factually SUFFICient Basis For The probable Cause Judgement must appear within The affidavit OF complaint, IF Hearsay is relied upon, The basis For the credibility of the informant and His information must appear on the affidavit.

see also: STATE V. Tays 836 S.W. 2d 596 (Tn. Cr. App. 1992) as cited in Tenn. R. Crim. P. Rule 4

> THE Test to Determine whether probable cause To Make an arrest should be as equally Stringent as the test to Determine whether probable cause exists to issue a search warrant.

THE Evidence That what used at the preliminary Hearing to Bind-over to the Grand Jury was an "Impeached Hearsay Statement" by Tenn. Bureau of Investigation Bryan Byrd, During an Illegal arrest During "custodial Interrogation" in violation OF The Rules set Fourth in Miranda v. Arizona 384 U.S 436, 86 S.Ct 1602. all in violation OF Tenn. R. Crim. P. 5.1 Pursuant to Waugh vs State 554 S.W.2d 654.

IN THE CIRCUIT COURT FOR TWENTY-SIXTH JUDICIAL DISTRICT
HENDERSON COUNTY AT LEXINGTON, TENNESSEE
DIVISION I

STATE OF TENNESSEE	)	
	)	
V.	)	CRIM. NOS. 94-342, 94-452 and 94-454.
	)	
JON HALL	)	

IN Addition To Those violations THE "Impeached Hearsay Statement" was publicized in all The Local Newspapers See: Shephard v. Maxwell, 384 U.S. 333, 86 S.Ct. 1507, 16 L.Ed 2d (1966.)(F. Lee Bailey) This preJudice The defendant at a "critical Stage" of The Preliminary Hearing, Forcing False adverse Publicity upon the defendant, in violation of The Due process clause of The 14th Amendment commensurate with Beck v. washington 369 U.S 541-546 (1962) dictum. Before The Grand Jury Proceedings in Henderson County in violation of A Fair and Impartial Tribunal Hearing. Pg. 2 of

NONE of The six attorneys appointed To me Have made any motions To Preserve any of my Constitutional Rights. That is [Jack Hinson and Frankie Stanfill] of The Lexington Public Defenders office which represented me through the Preliminary Hearing To The Grand Jury Proceedings. [George Googe and Steven Spracher] OF The 26th District Public Defenders office in Jackson, which Did The First investigation on 4/17/95 and set up the court appointed Psychiatric examination, asked originally To be had before Grand Jury proceeding by Jack Hinson at the Preliminary examination, it was Finally Scheduled on 2/23/95. after defendant Had been treated by a psychiatrist since Sept. 23, 1994 at Riverbend, with anti-Depressants, without ever conferring with Defendant UNTIL 7/24/95 See: McBee v. State, 655 S.W.2d 191 (Tn. Cr. App 1983)

IN Short, more defense investigative effort Should be expanded as soon as counsel is retained or The public Defender is assigned. Counsel must conduct appropriate investigations into Both Facts and the Law to determine what matters of Defense can be Developed.

Then Finally, I Had a motion Hearing on Nov. 8, 1995 Litigated By Michael Moshier. NO MOTions to Suppress any of The Constitutional Errors in this case Have been Made. See Tenn. R. of Crim. P. Rule 45(c) The ineffective assistance of counsel to make appropriate Motions See: State v. Hamilton, 628 S.W.2d 742 (Tn. Cr. App. 1981) See: State v. Zyla 628 S.W.2d 39 (1981) on confessions. Suffice it to Say I've been Denied the effective assistance of counsel as Described in Baxter v. Rose, 523 S.W.2d 930 and See: Mckeldin v. State 516 S.W.2d 82 Failure to Exploit Discovery opportunities. Both Michael Moshier and carthel Smith were given copies of Hall v. Johnson 95-1249 Filed in Jackson Fed. court Stating various violations But Still The Record Has not been set straight. And None of The errors could be

IN THE CIRCUIT COURT FOR TWENTY-SIXTH JUDICIAL DISTRICT
HENDERSON COUNTY AT LEXINGTON, TENNESSEE
DIVISION I

STATE OF TENNESSEE	)	
	)	
V.	)	CRIM. NOS. 94-342, 94-452 and 94-454.
	)	
JON HALL	)	

considered as "Harmless errors". I Have doubts to the type of Representation that I've been Given. I've Had six Full Fledged attorneys on my case, but as a Laymen at Law, I've Been the only person that has brought the constitutional Errors to light as per Tenn. R. of Crim. P. Rule 3. IT Seems like all the Court appointed Lawyers Do For The Defendant, is set them out For Jerry Woodal of The Dist. Attorneys office To violate constitutional Rights and alter evidence Such as the transcripts of My preliminary Hearing To cover up His Acts. ESSpecially Since I Filed Hall V. Johnson 95-1249 in Fed. Court.

I've Asked For several Items of Discovery To prove my allegations, But They Refuse to Send them To Me. For example a copy of The Audio Tapes of The aug 22, 1994 Preliminary Hearing. My attorneys Tell me They Have it, But will not comply with Giving it to me even under the Freedom of Information act. In certain several objections were made but not Listed on The Transcript Transcribed by The Dist. Atty. Secretary [Tonya Shavers]. I've showed them proof that I did not waive the kidnapping charge, or the auto theft charges Listed on Indictment 94-342. I've Showed them that the Impeached Hearsay Statement Byrd made was in Fact Impeached, But none of the attorneys were worried about Losing the Discovery Priveledges, and Asked For a "Motion To Stay, Vacate, and Remand order of Bind-over" Pursuant with Waugh V. State 564 S.W. 2d 654, But with out Accurate Transcripts, along with the Fact That [Jack Hinson] quit the public Defenders office, after Litigation of the Preliminary Hearing in violation of Parton V. State, 2 Tenn. Cr. App 626 455 S.W. 2d 645 (1970) (Gap in representation) See also: State V. Simon 635 S.W. 2d 498 (Tn. 1982) (Trial Judge Should appoint More experienced counsel), So, The Denial of Discovery of at least the prima facie Portion of the States case necessary to establish probable cause amounts to Rev. error. See Tenn. R. of crim. P. 6.9 [Scope of Review] citing Volan V. State 568 S.W. 2d 837 (Tn. Cr. App. 1978) the conduct Described in Hall V. Johnson 95-1249 amounts to "outrageous conduct" See List of cases cited in United State V. Myers 527 F. Supp. 1206 (D.C.N.Y) (Abscam) Section [9] const. violation w/prejudic

I Hearby certify that on 27 day of Dec 1995 I've sent a copy of this Letter to (Jerry woodal D.A.), (Lance B. Bracy Senior Disciplinary Counsel of Board of Professional Responsibility), (whit LaFon Henderson Co. Court Judge) (Asst. ATTy Gen., Civil Rights Div. Dept. of Justice, Wash. D.C.) (Judge Todd U.S. Fed. Dist. court Judge Jackson) (Tenn. ATTY General Charles Burson) with Sufficient Postage there on, Respectfully Submitted [signature], Sworn and Subscribed Before me this the 27 day of Dec 1995 Notary public [signature] My comm. exp. July 21, 99

IN THE CIRCUIT COURT FOR TWENTY-SIXTH JUDICIAL DISTRICT
HENDERSON COUNTY AT LEXINGTON, TENNESSEE
DIVISION I

STATE OF TENNESSEE)
)
V.) CRIM. NOS. 94-342, 94-452 and 94-454.
)
JON HALL)

WITHDRAWL OF COUNSEL

Comes now the Defendant, Jon Hall, and moves this court pursuant to T.C.A. 40-14-205, with a motion of withdrawl of counsel's in State of Tennessee v. Hall; In support of this motion, defendant will show this court the following:

WHEREFORE, defendant ask this court to expedite the proceedings so that said waiver will be spread upon the minutes of the court, and so that defendant can safeguard his constitutional rights. i.e., to entertain his own pro-se motions to preserve evidence in this cause as they have not been filed by former Attorney's.

Respectfully Submitted,

Jon Hall

Jon Hall - Defendant

SWORN TO ME THIS THE 14th DAY OF Jan. 1996.

NOTARY PUBLIC Donna Phillips

MY COMMISSION EXPIRES My Commission Expires JAN. 24, 1998

CARTHEL L. SMITH, ATTORNEY AT LAW
85 East Church
Lexington, Tennessee 38351
(901) 968-2561

APPOINTED ATTORNEY FOR
DEFENDANT, JON HALL

HONORABLE WHIT LAFON
CIRCUIT COURT JUDGE
HENDERSON COUNTY
LEXINGTON TN 38351

CERTIFICATE OF SERVICE

I hereby certify that I have mailed a true and exact copy of the foregoing Motion to Jim Thompson, Assistant District Attorney, P. O. Box 2825, Jackson, Tennessee 38302, this 19th day of Jan 1996.

Jon Hall

JON HALL #136941
RMSI 7475 COCKRILL BEND IND
NASHVILLE TN 37209-1010

JCP/jh
cc:file

DF-MOT 1

Assistant Public Defenders
PAMELA J. DREWERY
STEPHEN P. SPRACHER
DANIEL J. TAYLOR
VANESSA O. KING

Investigators
ROBERT F. RICE
LAWRENCE E. BROWN

Serving Madison, Chester and Henderson Counties

GEORGE MORTON GOOGE
DISTRICT PUBLIC DEFENDER
26th JUDICIAL DISTRICT
STATE OF TENNESSEE

227 West Baltimore St.
Jackson, TN 38301

Office Manager
IVA ARNOLD

Legal Assistants
CHRIS SCHERFF
TERESA MITCHE

Telephone
(901) 423-6657
Facsimile
(901) 423-6663

May 16, 1995

Purchased 7/29/94
AFTER CASHING First
UNEMPLOYMENT Che
Recied 7/27/94 TO
PAY SUPPORT.

Mr. John Hall
#238941
River Bend Maximum
7475 Cockrell Bend Ind.
Nashville, TN 37243-0471

Dear Mr. Hall,

By way of update on our investigation and discovery, we have obtained a copy of the money order, front and back, which is enclosed. → LEFT AT 525 Pl. Hill Rc

You have previously been sent copies of materials you requested from your file on more than one occasion. The most recent one was received by you on April 19, 1995.

Also, enclosed is a copy of a letter dated April 11, 1995. At your request the itemized materials were sent to you along with the above letter.

Sincerely,

George Morton Googe
District Public Defender

GMG/cs

Enclosure

IN THE CIRCUIT COURT FOR TWENTY-SIXTH JUDICIAL DISTRICT
HENDERSON COUNTY AT LEXINGTON, TENNESSEE
DIVISION I

STATE OF TENNESSEE)
FILED)
V. KENNY CAVNESS - CIRCUIT COURT CLERK CRIM. NOS. 94-342, 94-452 and 94-454.
JON HALL JAN 25 1996)
BY _____ DEPUTY CLERK

MOTION TO DISMISS AND ABATE THE INDICTMENT

Comes now the defendant, Jon Hall, by and through himself and would respectfully move this court to dismiss the bind-over pursuant to supra indictment and in conjunction with T.C.A. § 40-1131, as cited in State v. Waugh, 564 S.W.2d at 654.

Accordingly, attached heretofore, defendant advers to his supporting motion to dismiss and affidavit in support for an abatement of the bind-over.

In support of this motion, defendant will show this court the following:

(a) SEE DF-MOT 4 MOTION TO SUPPRESS CONFESSION IN VIOLATION OF TENN. R. CRIM. P. RULE 3 AFFIDAVIT OF COMPLAIN

WHEREFORE, defendant will forever pray.

Respectfully Submitted,

Jon Hall

Jon Hall - Defendant

SWORN TO ME THIS THE 19th day of January 1996.

NOTARY PUBLIC Rowena Garner

MY COMMISSION EXPIRES September 18, 1999

CARTHEL L. SMITH, ATTORNEY AT LAW
85 East Church Street
Lexington, Tennessee 38351
(901) 968-2561

APPOINTED ATTORNEY FOR

HONORABLE WHIT LAFON
CIRCUIT COURT JUDGE
HENDERSON COUNTY
LEXINGTON TN 38351

CERTIFICATE OF SERVICE

I hereby certify that I have mailed a true and exact copy of the foregoing Motion to Jim Thompson, Assistant District Attorney, P. O. Box 2825, Jackson, Tennessee 38302, this 11th day of Jan 1996.

Jon Hall

TOP/jh
cc: file

DF-MOT 6

IN THE CIRCUIT COURT FOR TWENTY-SIXTH JUDICIAL DISTRICT
HENDERSON COUNTY AT LEXINGTON, TENNESSEE
DIVISION I

STATE OF TENNESSEE)
)
V. : CRIM. NOS. 94-342, 94-452 and 94-454.
)
JON HALL)

AFFIDAVIT IN SUPPORT OF MOTION TO DISMISS AND ABATE
THE BIND-OVER

STATE OF TENNESSEE
-ss-
COUNTY OF DAVIDSON

I Jon Hall hereby after first being duly sworn hereby state and depose the following to-wit:

I was denied effective assistance of counsel during the Preliminary hearing held for me on August 22, 1994; I was denied ample time to consult with my Attorney's, and said Attorney's made no motion to the court for such; I was denied a Preliminary hearing on the Kidnapping and theft charges; my Attorney's waived the Preliminary hearing on the kidnapping and theft charges after I specifically told them not to; these said charges was later used against me by Attorney General Woodall as an enhancement tool to seek the death penalty; I was subjected to self-incrimination when Byrd did not read my Miranda rights; he then sought custodial interrogation against me without reading my rights to me, and then used false and perjured testimnoy against me during the Preliminary hearing; Agent Byrd also played this false and perjured testimony to the news-media, thereby denying me the right to a fair and impartial Jury Trial; this said false and perjured testimony was used and presented to the Grand Jury to bind me over which resulted in a True Bill being returned.

I Jon Hall hereby state under penalty of perjury that the forgoing affidavit in support of this motion to dismiss is true to the best of knowledge and belief. Signed this the 19th day of October 1995.

Jon Hall
Jon Hall - Defendant

SWORN TO ME THIS THE 19th DAY OF October.

NOTARY PUBLIC Virginia D. Allen

MY COMMISSION EXPIRES July 24, 1999.

IN THE CIRCUIT COURT FOR TWENTY-SIXTH JUDICIAL DISTRICT
HENDERSON COUNTY AT LEXINGTON, TENNESSEE
DIVISION I

FILED
KENNY CAMPBELL CIRCUIT CT. C
JAN 25 1996
BY _____ DEPUTY CLERK

STATE OF TENNESSEE)
)
V. : CRIM. NOS. 94-342 and 94-452 and 454.
)
JON HALL)

MOTION TO SUPPRESS

COMES NOW the Defendant, JON HALL, by and through his attorneys, JON HALL and Carthel L. Smith, and moves the Court to suppress or determine prior to the trial, the admissibility of all searches and seizures, (1) confessions (2) or admissions, eyewitness identification and any other matters the admissibility of which should properly be determined by the Court prior to the introduction of said evidence or testimony to the jury. Further, to require the State to refrain from the mention of such evidence or testimony to the jury prior to its suppression or admissibility being determined.

RESPECTFULLY SUBMITTED,

Jon Hall

MR JON HALL #230941
RMSI 7475 COCKRILL BEND IND RD
NASHVILLE TN 37209-1010

SWORN TO ME THIS THE 19th DAY OF Jan 1996.

NOTARY PUBLIC Donna Phillips

MY COMMISSION EXPIRES My Commission Expires JAN. 24, 1998

CARTHEL L. SMITH, ATTORNEY AT LAW
85 East Church Street
Lexington, Tennessee 38351
(901) 968-2561

APPOINTED ATTORNEY FOR
DEFENDANT, JON HALL

HONORABLE WHIT LAFON
CIRCUIT COURT JUDGE
HENDERSON COUNTY
LEXINGTON TN 38351

CERTIFICATE OF SERVICE

I hereby certify that I have mailed a true and exact copy of the foregoing Motion to Jim Thompson, Assistant District Attorney, P. O. Box 2825, Jackson, Tennessee 38302, this 19th day of Jan 1996.

Jon Hall

MR JON HALL #230941
RMSI 7475 COCKRILL BEND IND RD
NASHVILLE TN 37209-1010

In support of this motion, defendant will show this court the following:

(1), (2) (referred to hereinafter as "Exhibit (A) and "(B)

copy
to file

IN THE CIRCUIT COURT FOR TWENTY-SIXTH JUDICIAL DISTRICT
HENDERSON COUNTY AT LEXINGTON, TENNESSEE
DIVISION I

STATE OF TENNESSEE	)	
	)	
V.	)	CRIM. NOS. 94-342, 94-452 and 94-454.
	)	
JON HALL	)	

MOTION TO SUPPRESS

MEMORANDUM OF LAW POINTS AND AUTHORITIES

Since the begining THE Attorneys Have Failed To Protect My Constitutional Rights, Therefore I ask that You Hear my pro-se MoTions and List Me as Co-counsel Pursuant to State v. BurkHart 541 S.W. 2d at 361. and to Support My Claims OF "Exceptional Circumstances" I'm prepared to Show You That, I've Been Held on an "ILLegal Arrest" For Sixteen Months, in violation OF The Fourth Amendment. See: Henry VS. United States, 361 U.S. 98, 80 S.Ct. 168, 4 L.Ed. 2d 134 (1959)

ON Aug. 3, 1994 I was arrested in Belton Texas and Had a preliminary arraignment on Aug. 22, 1994. THE Arrest warrants were Listed as 2300 and 2301. Supported by an affidavit in violation OF Tenn. R. Crim. P. Rule 3 citing the case OF Spinelli vs. United States 393 U.S. 410 (1969) which States:

> A Factually SUFFICient Basis For The probable Cause Judgement must appear within The affidavit OF complaint, IF Hearsay is relied upon, The basis For the credibility of The informant and His information must appear on the affidavit.

see also: STATE V. Tays 836 S.W. 2d 596 (Tn. Cr. App. 1992) as cited in Tenn. R. Crim. P. Rule 4

> THE Test to Determine whether probable cause To Make an arrest should be as equally Stringent as the test to Determine whether probable cause exists to issue a search warrant.

THE Evidence That what used at the preliminary Hearing to Bind-over to the Grand Jury was an "Impeached Hearsay Statement" by Tenn. Bureau of Investigation Bryan Byrd, During an Illegal arrest "During "custodial Interrogation" in violation OF The Rules set Fourth in Miranda v. Arizona 384 U.S. 436, 86 S.Ct 1602 all in violation OF Tenn. R. Crim. P. 5.1 Pursuant to Waugh vs State 564 S.W.2d 654.

IN Addition To These violations THE "Impeached Hearsay Statement" was publicized in all The Local Newspapers See: Shepherd v. Maxwell, 384 U.S. 333, 86 S.Ct. 1507, 16 L.Ed 2d (1966)(F Lee Bailey) This prejudice The defendant at a "critical Stage" OF The Preliminary Hearing, Forcing False adverse Publicity upon the defendant, IN violation OF The Due process clause OF The 14th Amendment commensurate with Beck v. Washington 369 U.S 54/-546 (1962) dictum. Before The Grand Jury Proceedings IN Henderson County in violation OF A Fair and Impartial Tribunal Hearing.

JOB/jh
cc: file

EXHIBIT (A) - Warrant # 2306

[AFFIDAVIT FOR SEARCH WARRANT]
STATE OF TENNESSEE
HENDERSON COUNTY

PERSONALLY APPEARED BEFORE ME, BRENT BOOTH, WHO MAKES OATH THAT HE HAS [illegible] CAUSE FOR BELIEVING AND DOES BELIEVE THAT PERSONAL PROPERTY BELONGING TO JON HALL IS NEEDED AS EVIDENCE IN THE ALLEGED CRIMINAL OFFENSE OF FIRST DEGREE MURDER.

COMMITTED ON THE PERSON OF BILLIE HALL.

HIS REASON FOR SUCH BELIEF AND THE PORBABLE CAUSE FOR SUCH BELIEF IS THAT THE AFFIANT HAS RECEIVED INFORMATION FROM THE SAID DARLENE BROWN THAT ON THE 29 DAY OF JULY 1994 THE SAID JON HALL DID MAINTAIN RESIDENCE AT 500 WEST CHURCH STREET TRAILER NUMBER 42 AND BEING THE SAME RESIDENCE ALSO OCCUPIED BY DARLENE BROWN.

YOUR AFFIANT THEREFORE ASKS THAT A WARRANT BE ISSUED TO SEARCH THE RESIDENCE OF DARLENE BROWN AND JON HALL AND TO SEIZE PERSONAL PROPERTY BELONGING TO JON HALL TO BE USED AS EVIDENCE IN THE INVESTIGATION OF THE ALLEGED HOMICIDE.

AFFIANT

SWORN TO AND SUBSCRIBED BEFORE ME THIS THE 30th DAY OF July, 1994

NOTARY PUBLIC/JUDGE
HENDERSON COUNTY, TENNESSEE

EXHIBIT (A) (Judaes order) PURSUANT to { Arrest warrant #2300

[redacted]

EXHIBIT (A) *[CONTENTS OF SEIZED PROPERTY] Arrest WARRANT # 2306

Brent Booth

30

July

8:55

Blue Suitcase w/ 11 video Tapes, High School Annual, papers (3 pg. letter size)
1 Tape Radius Player w/ Two Tapes
1 Brown Paper sack w/ assorted photos and papers
1 Brown Canvas Bag w/ Assorted papers and receipts
1, Etc

30 July
B. Booth

AFFIDAVIT OF COMPLAINT

IN THE GENERAL SESSIONS COURT OF HENDERSON COUNTY, TN

I, Brent Booth, Affiant herein after being duly sworn according to law, makes oath and says: Jon Hall, herein referred to as Defendant whose name is otherwise unknown to the Affiant, committed the offense of 1st Degree Murder, a violation of TCA _____, in Hendersonville County, TN on or about 8/22/94

FURTHER, Affiant makes oath and says that the following facts constituting said offense, occurred in the above County and State and at the stated time, to-wit:

Jon Hall did intentionally plan and kill Billie Hall This act took place at 525 Pleasant Hill Road at the residence of Billie Hall in Henderson County Tennessee.

Signature of Affiant: Brent Booth

Sworn to and subscribed before me this the _____ day of _____, 19____

Bound To Be Guilty 8-22-94

Judge/Clerk/Judicial Commissioner

NAME & ADDRESS OF COMPLAINANT

Brent Booth
Hendersonville Co. P.D.

Phone _____
S.S.# _____
Dr. Lic.# _____

DEFENDANT

Jon Hall

Phone _____
S.S.# _____
Dr. Lic.# _____

DESCRIPTION OF DEFENDANT

Age: 21 Sex: M ✓ F ___ Complexion: _____
Height: 5'11" Ft. ___ In. Weight: 165 Distinguishing traits: _____

May be found at: _____

Place of employment: _____

✓ WARRANT ___ CRIMINAL SUMMONS
___ CITATION ISSUED

TO ANY LAWFUL OFFICER OF THE STATE: Based upon the sworn Affidavit of Complaint, there is probable cause to believe that the offense named herein or _____ (TCA _____) was committed in said County by the Defendant.

THEREFORE, you are hereby commanded in the name of the State of Tennessee to, forthwith, _____ ARREST _____ SUMMON the Defendant and bring Defendant before the General Sessions Court of said County to answer the charges.

Issued: _____, 19____

Judge/Clerk/Judicial Commissioner

Received _____, 19____

By _____, Officer

OFFICER'S RETURN

I HEREBY CERTIFY that I have served the within WARRANT/SUMMONS by _____

Arrest

this 3 day of Aug, 19 94 at _____ AM/PM.

Title: Inv

I HEREBY CERTIFY that I was unable to serve the within WARRANT/SUMMONS because: _____

this _____ day of _____, 19____

Title _____

WAIVER OF RIGHTS

Being fully advised of his/her rights, the Defendant hereby waives

( ) The right to a preliminary hearing within 10/30 days

( ) The right to counsel at the preliminary hearing;

( ) right to a preliminary hearing

_____ Defendant

_____ Attorney

_____ Judge

_____ Date

ORDER

( ) UPON TRIAL, the Court finds probable cause that an offense occurred and that Defendant committed the offense herein and Defendant is hereby bound to the ... and Jury of Henderson County, TN

( ) UPON TRIAL, the Court finds that the State has failed to show probable cause in this matter and the same is hereby dismissed with cost taxed to the State.

( ) Defendant, having waived the right to a preliminary hearing, is hereby bound to the Grand Jury of Henderson County, TN upon the charges herein.

( ) Defendant is hereby ordered to appear in the Criminal Court for Henderson County, TN at _____ AM/PM on the _____ day of _____ 19____, and bond is hereby set at $_____.

_____, Judge

_____, Date

DOCKET # _____

STATE OF TENNESSEE

VS. Jon Hall

_____ Defendant

_____ Address

Violation _____

AFFIDAVIT OF COMPLAINT

COURT OF GENERAL SESSIONS
HENDERSON COUNTY, TENNESSEE

Bond $ _____

Conditions of Bond: _____

Defendant must appear in General Sessions Court on 8-7 19 24 at 9:00 AM/PM

Reset for: (1) 8-22-24 9:00A (2) _____ (3) _____ (4) _____ (5) _____

CLERK'S RECORDS

Mittimus issued _____

Fines: $ _____ Jail Fees: $ _____

Court Cost: $ _____

Litigation Tax: $ _____

Other: _____

Public Defender
Attorney for Defendant

JUDGEMENT

( ) UPON TRIAL/PLEA, the Court finds Defendant GUILTY/NOT GUILTY of _____

( ) Dismissed, on Motion of State; Costs taxed to _____

( ) Dismissed, upon _____ Costs taxed to _____

( ) Defendant waives extradition Costs taxed to _____

( ) Cash bond forfeited to payment of fine and costs

( ) Separate orders attached

SENTENCE

( ) Fined $_____ and costs; and/or

( ) Sentenced to serve _____ months and _____ days, in _____ County jail, beginning _____ 19_____ at _____ AM/PM. Sentence is suspended except _____ months and _____ days, and/or

( ) Defendant's driving privilege is suspended for _____ _____ years/or

( ) Defendant is placed on probation through _____ for a period of _____ and the Defendant probation/suspended sentence is condition upon _____ and paying fines/cost restitution and complying with all laws.

( ) OTHER: _____

If Defendant is in violation of Defendant's suspended sentence/probation, Defendant shall serve _____% of the sentence herein as _____ offender.

_____, Judge

Arrest 230 warrant (B)

AFFIDAVIT OF COMPLAINT - EX PARTE

IN THE G ERAL SESSIONS COURT OF HENDERSON COUNTY, TN

I, Brent Smith, Affiant herein after being duly sworn according to law, makes oath and says: Jon Hall, herein referred to as Defendant, whose name is otherwise unknown to the Affiant, committed the offense of Kidnapping, a violation of TCA 39-2-303, in Henderson County, TN on or about July 29, 1994.

FURTHER, Affiant makes oath and says that the following facts, constituting said offense, did occur in the above County and State and at the stated time, to-wit:

On July 29, 1994 Jon Hall took Clinton E. Smith (Child) 12 yrs of age against his will and without the permission of his Parents.

Signature of Affiant: Brent Smith

Sworn to and subscribed before me this the _____ day of _____, 19____

Judge/Clerk/Judicial Commissioner

Brent Smith

Phone:
S.S.#
Dr. Lic.#

Jon Hall

Phone:
S S #
Dr. Lic. #

DESCRIPTION OF DEFENDANT:

Age:_____; Sex: M___ F___; Complexion: _____

Height:____ Ft. ___ In.; Weight: _____; Distinguishing traits: _____

May be found at: _____

Place of employment: _____

___ARREST WARRANT ___CRIMINAL SUMMONS

___CITATION ISSUED

TO ANY LAWFUL OFFICER OF THE STATE: Based upon the sworn Affidavit of Complaint, there is probable cause to believe that the offense named herein or _____ (TCA _____) was committed in said County by the Defendant.

THEREFORE, you are hereby commanded in the name of the State of Tennessee to, forthwith, _____ ARREST _____ SUMMON, the Defendant and bring Defendant before the General Sessions Court of said County to answer the charges.

Issued _____, 19____

Judge/Clerk/Judicial Commissioner

Received _____, 19____

By _____, Officer

OFFICER'S RETURN

I HEREBY CERTIFY that I have served the within WARRANT/SUMMONS by _____

this 2 day of Aug, 19 94, at _____ AM/PM.

Title: Inv.

I HEREBY CERTIFY that I was unable to serve the within WARRANT/SUMMONS because: _____

this _____ day of _____, 19____

Title:

WAIVER OF RIGHTS

Being fully advised of his/her rights, the Defendant hereby waives:

( ) The right to a preliminary hearing within 10/30 days;

( ) The right to counsel at the preliminary hearing;

( ) The right to a preliminary hearing

_____,Defendant

_____,Attorney

_____, Judge

_____,Date

ORDER

( ) UPON TRIAL, the Court finds probable cause that an offense occurred and that Defendant committed the offense herein and Defendant is hereby bound to the Grand Jury of Henderson County, TN

( ) UPON TRIAL, the Court finds that the State has failed to show probable cause in this matter and the same is hereby dismissed with cost taxed to the State.

( ) Defendant, having waived the right to a preliminary hearing, is hereby bound to the Grand Jury of Henderson County, TN upon the charges herein.

( ) Defendant is hereby ordered to appear in the Criminal Court for Henderson County, TN at _____ AM/PM on the _____day of _____ 19_____,and bond is hereby set at $_____.

_____,Judge

_____,Date

DOCKET # 2301

STATE OF TENNESSEE

VS.

Jon Hall

Defendant

Address

Violation: Kidnapping

AFFIDAVIT OF COMPLAINT

COURT OF GENERAL SESSIONS
HENDERSON COUNTY, TENNESSEE

Bond: $ _____

Conditions of Bond: _____

Defendant must appear in General Sessions Court on 8-9, 19 94, at 9:00 AM/PM.

Reset for: (1) 8-22-94 9:00 Am

(2) _____ (3)_____

(4) _____ (5)_____

CLERK'S RECORDS

Mittimus issued _____

Fines: $ _____ Jail Fees: $_____

Court Cost: $ _____

Litigation Tax: $ _____

Other: _____

Public Defender

Attorney for Defendant

JUDGEMENT

( ) UPON TRIAL/PLEA, the Court finds Defendant GUILTY/NOTGUILTY of _____

( ) Dismissed, on Motion of State; Costs taxed to _____

( ) Dismissed, upon _____ Costs taxed to, _____

( ) Defendant waives extradition. Costs taxed to _____

( ) Cash bond forfeited to payment of fine and costs

( ) Separate orders attached

SENTENCE

( ) Fined $_____and costs; and/or

( ) Sentenced to serve _____months and_____days in _____County jail, beginning _____ 19 _____ at _____AM/PM. Sentence is suspended except _____ months and _____ days; and/or

( ) Defendant's driving privilege is suspended for _____ _____and/or

( ) Defendant is placed on probation through _____ for a period of _____ and the Defendant probation/suspended sentence is condition upon _____

and paying fines/cost restitution and complying with all laws.

( ) OTHER: _____

If Defendant is in violation of Defendant's suspended sentence/probation, Defendant shall serve _____% of the sentence herein as _____ offender

_____, Judge

IN THE CIRCUIT COURT FOR TWENTY-SIXTH JUDICIAL DISTRICT
HENDERSON COUNTY AT LEXINGTON, TENNESSEE
DIVISION I

STATE OF TENNESSEE)
)
V. : CRIM. NOS. 94-342, 94-452 and 94-454.
)
JON HALL)

MEMORANDIUM IN SUPPORT OF MOTION FOR THE COURT TO CONSIDER ALL MOTIONS AND OBJECTIONS BY THE DEFENSE IN LIGHT OF A HIGHER STANDARD OF DUE PROCESS AND RELIABILITY THAT ATTACHES IN DEATH PENALTY CASES

I. "DEATH IS DIFFERENT": THE IMPOSITION OF THE PENALTY OF DEATH REQUIRES, AS A MATTER OF FUNDAMENTAL CONSTITUTIONAL LAW, HEIGHTENED SCRUTINY AND RELIABILITY IN THE GUIDANCE AND EXERCISE OF SENTENCING DISCRETION.

As a matter of substantive consitutional law, the imposition of death as a criminal sanction is fundamentally and qualitatively different from every other punishment meted out by a state. It is more servere in quantity and quality from life in prison. The taking of the life of one of its citizens is the most extreme action that a governmental entity can take. Indeed, death, because of its severity and finality, occupies a constitutional classification that is unique unto itself. As the United States Supreme Court explained in Woodson v. North Carolina, 428 U.S. 280 (1976), the Constitution requires a reliability in captial cases that has no parallel in no captial cases:

> The penalty of death is qualitatively different from a sentence of imprisonment, however long. Death in its finality, differs more from life imprisonment than a 100-year prison term differs from only one of a year or two. Because of that qualitative difference, there is a corresponding difference in the need for reliability in the determination that death is the appropriate punishment in a specific case.

Id. at 305

It is from this fundamental and overriding constitutional concern for the reliability of any sentence of death that most of the standards and principles governing capital punishment emanate. Numerous rules and safeguards have been developed by the courts, including the Tennessee Supreme Court and the United States Supreme Court, to circumscribe proceedings where death may be the ultimate

penalty. These rules and safeguards are far more than procedural niceties. They are substantive law, infused with the recognition that, to be constitutional, a sentence of death must be the result of the exercise of individualized, reasoned and reliable sentencing discretion.

Indeed, the Supreme Court has repeatedly recognized that death in such a final and draconian step that its imposition must be attended with constitutional protections designed to ensure both that the courts have reliably identified those defendants who are guilty of a capital crime and for whom execution is the appropriate saction, see, e.g. Ford v. Wainwright, 477 U.S. 399 (1986), and that the death sentence is "and appear(s) to be, based on reason rather than caprice or emotion." Gardner v. Florida, 430 U.S. 349, 358 (1977). As the Court stated in Caldwell v. Mississippi, 472 U.S. 320 (1985):

> This Court has repeatedly said that under the Eight Amendment "the qualitative difference of death from all other punishments requires a correspondingly greater degree of scruntiny of the capital sentencing determination." Accordingly, many of the limits that this Court has placed on the imposition of capital punishment are rooted in a concern that the sentencing process should facilitate the responsible and reliable exercise of sentencing discretion.

Id. at 329 (citations omitted) (quoting California v. Ramos, 463 U.S. 992, 9898-99 (1983). See also Eddings v. Oklahoma, 455 U.S. 104 (1982); Lockett v. Ohio, 438 U.S. 586 (1978); Garner v. Florida, 430 U.S. 349 (1977).[1]

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1. Captial decisions emanating from the United States Supreme Court contain numerous examples fo this conern for the reliability of a death sentence. See, e.g., Barefoot v. Estelle, 463 U.S. 880, 924 (1983) (Blackmun, Jr. dissenting) (Woodson's concern for assuring heightened reliability in capital sentencing determination "is a firmly established as any in our Eighth Amendment jurisprudence"); Eddings v. Oklahoma, 455 U.S. 104, 118 (1982) (O' Connor, J., concurring) ("This Court has gone to

In his opinion in Spaziano v. Florida, 468 U.S. 447 (1984), Justice Stevens noted that "in the 12 years since Furman v. Georgia every Member of this Court has written or joined at least one opinion endorsing the propostition that because of its severity and irrevocavility, the death penalty is qualitatively different from any other punishment, and hence must be accompanied by unique safeguards to ensure that it is a J., concurring in part and dissenting in part) (citations and footnote omitted). See also Parker v. Dugger, 498 U.S. _____, 111 S. Ct. 731, 112 L.Ed. 2d 812 (1991).

The retionale for this well-recognized constitutional distinction between death and every other type of criminal punishment was perhaps best articulated in Justice Brennan's concurrence in Furman v. Georgia, 408 U.S. 238 (1972):

> Death is truly an awesome punishment. The calculated killing of a human being by the State involves, by its very nature, a denial of the executed person's humanity. The contrast with the plight of a person punished by imprisonment is evident. An individual in prison does not lose "the right to have rights." A prisoner retains, for example, the constitutional rights to the free exercise of religion, to be free of cruel and unusual punishments, and to treatment as a "person" for purposes of due process of law and the equal protection of the laws. A prisoner remains a member of the human family. Moreover, he retains the right of access to the courts. His punishment is not irrevocable. Apart from the common charge, grounded upon the recognition of human fallibility that the punishment of death must inevitably be inflicted upon innocent men, we know that death has been the lot of men whose convictions were unconstitutionally inflicted, yet the finality of death precludes relief. An executed person has indeed "lost the right to have rights." As one 19th century proponent of punishing crimnals by death declared, "When a man is

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extradiordinary measures to ensure that the prisoner sentenced to be executed is afforded due process that will guarantee, as much as is humanly possible, that the sentence was not imposed out of whim, passion, prejudice or mistake") Godfrey v. Georgia, 446 U.S. 420, 443 (1980) (Burger, J., dissenting) (In capital cases we must see to it that the Jury has rendered its decision with meticulous care") See also Caldwell, 472 U.S. at 329 n. 2.

> hung, there is end of our relations with him. His execution is a way of saying, You are not fit for this world, take your chance elsewhere.

Id. at 290 (Brennan, J., concurring) (citation omitted) (quoting Stephen, Capital Punishments, 69 Fraser's Magazine 753, 763 (1864). See also Furman, 408 U.S. at 306 (Stewart, J., concurring) ("The penalty of death differs from all other forms of criminal punishment, not in degree but in kind. It is unique in its total irrevocability. It is unique in its rejection of rehabiliation of the convict as a basic purpose of criminal justice. And it is unique, finally, in its absoulte renunciation of all that is embodied in our concept of humanity").

The Tennessee Supreme Court has recognized the unique characteristics of the impostion of the sentence of death and the consequent unique constitutional protections for a defendant charged iwth a capital offense. For example, in Johnson v. State, 797 S.W. 2d 578 (Tenn. 1990), referring to Woodson, supra, the State Supreme Court stated:

> The penalty of death is qualitatively different from a sentence of imprisonment and because of that difference there is a corresponding difference in the need for reliability in the determination that death is the appropriate punishment in a specific case.

797 S.W. 2d at 580. See also State vs. Terry, 813 S.W. 2d 420, 425 (Tenn. 1991) and State v. Middlebrooks, Supreme Court at Nashville, No. 01-S-01-9201-00008, decided 9/8/92, slip opinion, p. 57.

The difference between a life sentence and a death sentence in Tennessee may be greater in actual fact than many imagine. Although the current prediction concerning the amount of time that an inmate serving a life sentence must actually expect to serve before he is released from custody is difficult to predict and is perhaps now longer in this state than it used to be, based on past experience the average release time on a life sentence in the immediate past years has been a little

more than one-fifth of an actual normal life span figured at seventy years.[2]

While a life sentence has in the past taken away a defendant's freedom for one-fifth of his or her life, a death sentence takes form the defendant, not only freedom for the defendant's entire life, but life itself. The death-sentenced defendant endures the psychological debilitation of being condemned to die while the life-sentence defendant enjoys the psychological advantage of anticipating release. The difference between the death sentence and the life sentence is therefore, one of both quality and quantity, substance and degree. The sentence of death is much more severe in all categories and to compare it to other types of sentences, which deprive the defendant of property or liberty, is to compare apples and oranges.

II. SENTENCING JURIES MUST BE CAREFULLY AND ADEQUATELY GUIDED IN THEIR DELIBERATIONS.

To ensure the heightened reliability that is required of proceedings that may result in the imposition of the death penalty, the Jury vested with the authority to impose the sentence must be "carefully and adequately guided" in the exercise of its discretion. Gregg v. Georgia, 428 U.S. at 193. Such guidance will be deemed constitutionally sufficient only it it "channel(s) the sentencer's discretion by clear and objective standards' that provide specific and detailed guidance,' and that make rationally reviewable the process for imposing a sentence of death." Godfrey v. Georgia, 446 U.S. 420, 428 (1980) (quoting, respectively, Gregg v. Georgia, 428 U.S. at 198; Proffit v. Florida, 429 U.S. 242, 253 (1976); and Woodson v. North Carolina, 428 U.S. 280, 303 (1976).

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2 According to figures released by the Tennessee Sentencing Commission, the average time actually served by inmates, who were released between 1986 and 1991, serving life sentence on first-degree murder convictions in this state, was somewhere around 15 years. {(1) In 1986-1987, 19 inmates were released who had served an average time of 14.9 years for first-degree murder. (2) In 1987-1988, 6 inmates, 11.3 years average time. (3) In 1989-1990, 36 inmates, 15.5 years average time. (4) In 1990-1992, 32 inmates, 15.8 years average time.}

III. A SENTENCE OF DEATH MUST BE BASED UPON AN INDIVIDUALIZED DETERMINATION OF ITS APPROPRIATENESS FOR THE PARTICULAR DEFENDANT UPON WHOM IT IS IMPOSED. TOWARD THAT END, THE SENTENCER MUST BE ALLOWED TO CONSIDER ANY RELEVANT MITIGATING FACTOR, NOT JUST THOSE SPECIFIED BY THE STATE'S DEATH PENALTY STATUTE.

Having made the determination that the defendant is a member of the narrow class of people eligible for death by virtue of the presence of one or more clearly and objectiverly defined aggravating circumstances, the sentencer cannot be constitutionally required even onthat basis to impose a death sentence. Woodson v. North Carolina, 428 U.S. at 404. "The fundamental respect for humanity underlying the Eighth Amendment ... requires consideration of the character and record of the individual offender and the circumstances of the particular offense as a constitutionally indispensable part of the process of inflicting the penalty of death." Id. at 604. See also Roberts v. Louisiana, 431 U.S. 633 (1977); Roberts v. Louisiana, 428 U.S. 325 (1976).

Only through such a process, which requires the sentencer to "consider in fixing the ultimate punishment of death the possibility of compassionate or mitigating factors stemming from the diverse frailties of humankind, "Woodson v. North Carolina, 428 U.S. at 304, can capital defendants be treated as the Eighth Amendment requires -- "as uniquely individual human beings." Id. Because of this need for individualized treatment, the Court has required that the sentencer be permitted to consider, and in appropriate cases base a decision to impose a sentence short of death upon, any state's death penalty statue. Lockett v. Ohio, 438 U.S. 586 (1978). As the Court explained in Eddings v. Oklahoma, 455 U.S. 104 (1982):

> Lockett followed from the earlier decisions of the Court and from the Court's insistence that capital punishment be imposed fairly, and with reasonable consistency, or not at all ... By holding that the sentencer in captial cases must be permitted to consider any relevant mitigating factor, the fule in Lockett recognizes that a consistency produced by ignoring individual differences is a false consistency.

Id. at 112.

IV. DEATH AS A PUNISHMENT MUST BE PROPORTIONATE TO THE CRIME FOR WHICH IT IS IMPOSED.

Finally, the requirement that the "punishment fit the crime" -- that death must be imposed consistently and reserved solely for the punishment of individuals and conduct for which the severest criminal sanction is appropriate -- is a requirement of constitutional magnitude. Eddings v. Oklahoma, 455 U.S. 104 (1982); Cf. Pulley v. Harris, 465 U.S. 37 (1984) (comparative proportionality review constitutionally mandated where part of the state's statutory scheme for imposition of the death penalty). T.C.A. Section 39-13-206(c) specifically mandates a determination concerning whether the imposition of the sentence of death in an individual capital case is arbitrary, excessive, or disproportionate.

V. THE DISCRETION TO IMPOSE DEATH MUST BE LIMITED.

As part of the constitutional jurisprudence of death under the Eight Amendment, the Supreme Court has steadfastly insisted that states meaningfully narrow the class of persons for whom death is an available penalty. Thus, it has been held that a conviction for a crime for which death is an available sentencing option cannot, standing alone, justify the imposition of the penalty from a constitutional standpoint. Rather, the state must specify certain aggravating circumstances, at least one of which must be present, in order for the defendant to become constitutionally death-eligible.

In Zant v. Stephens, 462 U.S. 862 (1983), for example, the Court held that the state "must geninely narrow the class of persons eligible for the dealth penalty" by requiring the finding of a least one statutory aggravating circumstance which sets a particular case apart from murders in general. Id. at 877. As Justice White state in Furman v. Georgia, 408 U.S. 238 (1972), the sentence of death cannot be constitutionally imposed where "there is no meaningful basis for distinguishing the few cases in which it is imposed from the many cases in which it is not." Id. at 313 (White, Jr., concurring).

The Tennessee Supreme Court has recognized the application in this state of the "narrowing" limitation on the exercise of the jury's discretion contemplated in Zant v. Stephens, supra. See, for example, State v. Middlebrooks, Supreme Court at Nashville, No. 01-S-01-9102-00008, decided 9/8/92, slip opinion, p. 51-55.

In order to properly enforce, concerning the decision to impose the sentence of death, this "narrowing" requirement, the "reliability" requirement, and the requirement that the jury's discretion be limited and that its decision be based on the reason and not whim and caprice (see, ibid.), for example, the Tennessee Supreme Court has required that the scope of the state's proof-in-chief in a capital sentencing trial is limited to only proof relevant to the statutory aggravating circumstances. See, Cozzolino v. State, 584 S.W. 2d 765 (Tenn. 1979); and Black v. State, 815 S.W. 2d 166, 179 (Tenn. 1991); and the state is held to a double burden of proof beyond a reasonable doubt in a capital sentencing hearing, i.e., the state must prove beyond a reasonable doubt: (1) the existence of any statutory aggravating circumstance; and, subsequently that (2) any statutory aggravating circumstance outweighs any mitigating circumstance, statutory or otherwise, T.C.A. Section 39-13-204 (g).

VI. THE DISCRETION TO IMPOSE A SENTENCE OF LIFE IS NOT LIMITED

The State and federal constitutions require that the jury's decision to impose a sentence of death must be "limited," "reliable," and "narrowed." At the same time, however, the jury's decision to impose a sentence of life may be based on anything with evidence that is relevant to the character of the defendant or the circumstances of the offense. See, Lockett v. Ohio, 438 U.S. 586 (1978); Zant v. Stephens, supra; Eddings v. Oklahoma, 455 U.S. 104 (1982); Skipper v. South Carolina, 476 U.S. 104; Hictchcock v. Dugger, 481 U.S. 393 (1987) Mills v. Maryland, 486 U.S. 387 (1988). See also State v. Middlebrooks, supra, slip opinion, p. 57.

The defendant's proof, therefore, is not limited to the statutory mitigating circumstances, T.C.A. Section 39-13-204(e) and (j) (9); and, in fact, the defendant is entitled to a jury instruction directing the jury to consider any evidence presented concerning mitigating circumstances, statutory or otherwise, T.C.A. Section 39-13-204(e) ("The trial judge shall also include in the instructions for the jury to weigh and consider any mitigating circumstances raised by the evidence at either the guilt or sentencing hearing or both which shall include but not be limited to those circumstances set forth in subsection (j).") The defendant is entitled to such an instruction upon the presentation of "any mitigating circumstances raised by the evidence," id., and therefore has no specific burden of proof. See, for example, State v. Thompson, 768 S.W. 2d 239, 252 (Tenn. 1989) ("Each juror has discretion to determine the degree to which the proof mitigates against the death penalty.")

In the comparison of the limited scope of the prosecution's proof with the broad scope of the defense's proof that is subject to the jury's scrutiny, the Court in State v. Middlebrooks, supra, noted

> .... a capital sentencer must be allowed wide discretion -- not unlike that used before Furman -- to impose a life sentence based upon any mitigating evidence concerning the character of the defendant or the circumstances of the crime, the sentence of death) on a class of murderers that is demonstrably smaller and more blame worthy than the class of pre-Furman murders eligible for the death penalty.

IN THE CIRCUIT COURT FOR TWENTY-SIXTH JUDICIAL DISTRICT
HENDERSON COUNTY AT LEXINGTON, TENNESSEE
DIVISION I

STATE OF TENNESSEE)
)
V. : CRIM. NOS. 94-342, 94-452 and 94-454.
)
JON HALL)

CONCLUSION

WHEREFORE, this Court should enter an Order recognizing that because the state is seeking the death penalty a heightened standard of review by the Eight and Fourteenth Amendments to the United States Constitution, Tennessee state law and the state constitution of Tennessee.

Respectfully Submitted,

Jon Hall - Defendant

SWORN TO ME THIS THE 19th day of January 1996.

NOTARY PUBLIC Rowena Sanned

MY COMMISSION EXPIRES September 18, 1999

CARTHEL L. SMITH, ATTORNEY AT LAW
85 East Church Street
Lexington, Tennessee 38351
(901) 968-2561

APPOINTED ATTORNEY FOR

HONORABLE WHIT LAFON
CIRCUIT COURT JUDGE
HENDERSON COUNTY
LEXINGTON TN 38351

CERTIFICATE OF SERVICE

I hereby certify that I have mailed a true and exact copy of the foregoing Motion to Jim Thompson, Assistant District Attorney, P. O. Box 2825, Jackson, Tennessee 38302, this 19th day of Jan 1996.

JQP/jh
cc: file

DP-MOT/ 10

IN THE CIRCUIT COURT FOR TWENTY-SIXTH JUDICIAL DISTRICT
HENDERSON COUNTY AT LEXINGTON, TENNESSEE
DIVISION I

STATE OF TENNESSEE)
)
V. : CRIM. NOS. 94-342, 94-452 and 94-453
)
JON HALL)

FILED
KENNY CAMMESS - CIRCUIT CT. CL
JAN 25 1996
BY _____ DEPUTY CLERK

MOTION TO LEAVE TO FILE FURTHER MOTIONS

Comes now the defendant, Jon Hall, and respectfully moves this Honorable Court to permit the filing of additional motions in this matter. Defendant has filed motions which he believes to be necessary in order to protect the interest of the defendant in this cause. Defendant has already entertained motions with this Court and is awaiting the final outcome of investigator, Tammy Askew, of Jackson Tennessee, pursuant to researching the issues in this cause, as to otherwise provide the effective representation of the defendant. The filing of additional motions may be necessary in order to adequately provide the effective assistance of counsel to which the defendant is entitled to under the Sixth Amendment of the United States Constitution.

This motion is not made to delay or to encumber the Court with unecessary or irrelevant motions, but for the very purpose to provide the defendant the opportunity to be represented by counsel that will effectively represent defendant on colorful pro-se motions that defendant wishes to be filed in the event that defendant moves this Honorable Court to withdrawl of counsel pursuant to T.C.A. § 40-14-205.

Respectfully Submitted,
Jon Hall
Jon Hall - Defendant

SWORN TO ME THIS THE 19th DAY OF January 1996.
NOTARY PUBLIC Rowena Thames
MY COMMISSION EXPIRES September 18, 1999

CARTHEL L. SMITH, ATTORNEY AT LAW
85 East Church
Lexington, Tennessee 38351
(901) 968-2561

APPOINTED ATTORNEY FOR
DEFENDANT, JON HALL

HONORABLE WHIT LAFON
CIRCUIT COURT JUDGE
HENDERSON COUNTY
LEXINGTON TN 38351

CERTIFICATE OF SERVICE

I hereby certify that I have mailed a true and exact copy of the foregoing Motion to Jim Thompson, Assistant District Attorney, P. O. Box 2825, Jackson, Tennessee 38302, this 11th day of Jan 1995.

Jon Hall
MR JON HALL #238941
RMSI 7475 COCKRILL BEND IND RD
NASHVILLE TN 37209-1012

JQP/jh
cc: file

DF-MOT 9

IN THE CIRCUIT COURT FOR TWENTY-SIXTH JUDICIAL DISTRICT
HENDERSON COUNTY AT LEXINGTON, TENNESSEE
DIVISION I

FILED
KENNY CAVNESS - CIRCUIT CT. C
JAN 25 1996
BY
DEPUTY CLERK

STATE OF TENNESSEE)
)
V. : CRIM. NOS. 94-342, 94-452 and 94-454
)
JON HALL)

MOTION FOR THE COURT TO CONSIDER ALL pro-se motions AND OBJECTIONS BY THE DEFENSE IN LIGHT OF A HIGHER STANDARDS OF DUE PROCESS AND RELIABILITY THAT ATTACHES IN DEATH PENALTY CASES

Comes now the defendant, through counsel, and respectfully requests this Court to apply, in the course of ruling on motions, objections, and other matters arising in the course of this litigation, the heightened standard of due process required by the Eighth and Fourteenth Amendments to the United States Constitution and Article I, Sections 8, 16, and 17 of the Tennessee Constitution, and by the authorities set out to ensure the exercise of constitutional discretion in the decision and reliability in the result that is required specifically and uniquely in cases involving the potential for the imposition of the sentence of death.

RESPECTFULLY SUBMITTED,

Jon Hall

MR JON HALL #230941
RMSI 7475 COCKRILL BEND IND RD
NASHVILLE TN 37209-1010

SWORN TO ME THIS THE 19th DAY OF January 1995.

NOTARY PUBLIC Lorena Raines

MY COMMISSION EXPIRES September 18, 1999

CARTHEL L. SMITH, ATTORNEY AT LAW
85 East Church Street
Lexington, Tennessee 38351
(901) 968-2561

APPOINTED ATTORNEY FOR
DEFENDANT, JON HALL

HONORABLE WHIT LAFON
CIRCUIT COURT JUDGE
HENDERSON COUNTY
LEXINGTON TN 38351

CERTIFICATE OF SERVICE

I hereby certify that I have mailed a true and exact copy of the foregoing Motion to Jim Thompson, Assistant District Attorney, P. O. Box 2825, Jackson, Tennessee 38302, this 11 day of Jan. 1995.

JCP/jh
cc: file

Jon Hall

DFMOT 10

MR JON HALL #230941
RMSI 7475 COCKRILL BEND IND RD

IN THE CIRCUIT COURT OF HENDERSON COUNTY, TENNESSEE

STATE OF TENNESSEE)
)
v.) No. 95-265
)
JON HALL)

MOTION TO ALLOW WITNESSES TO BE ACCOMPANIED BY GRANDPARENTS WHILE TESTIFYING

Comes now the State of Tennessee by and through the office of the District Attorney General and moves this Honorable Court to permit the minor children of the deceased to be accompanied by a Grandparent or other person while testifying from the witness stand and in support there of States:

1. The witnesses are considerably young.

2. The witnesses are extremely emotionally upset from witnessing their mother killed by the defendant.

3. The attendance of a Grandparent or other person in whom the witnesses have confidense is essential to their well being at trial.

Respectfully Submitted.

AL EARLS
ASSISTANT DISTRICT ATTORNEY

CERTIFICATE OF SERVICE

I hereby certify that I have mailed a true copy of the foregoing to Mr. Mike Mosier, Attorney at Law, P. O. Box 1623, Jackson, Tennessee 38305, this 23 day of January, 1996.

AL EARLS
ASSISTANT DISTRICT ATTORNEY

IN THE CIRCUIT COURT FOR TWENTY-SIXTH JUDICIAL DISTRICT
HENDERSON COUNTY AT LEXINGTON, TENNESSEE
DIVISION I

STATE OF TENNESSEE)
)
V. : CRIM. NOS. 94-342, 94-452 and 94-454.
)
JON HALL)

MOTION FOR EARLY PROUDCTION OF WITNESSES' STATEMENTS

COMES NOW the Defendant, Jon Hall, by and through counsel, and hereby moves this Court for an order compelling the State of Tennessee to produce all statements the State will be required to produce in accordance with T.C.A. §40-17-120 and Rule 26.2 of the Tennessee Rules of Criminal Procedure, at least two weeks in advance of the trial date, for inspection and copying by counsel for Defendant. As grounds for this motion, the Defendant states that the earily production of witness' statements will afford adequate trial preparation and expedite the trial of this cause. A Memorandum of Law is submitted herewith in support of the Defendnat's Motion.

Jon Hall

MR JON HALL #238941
RMSI 7475 COCKRILL BEND IND RD
NASHVILLE TN 37209-1010

SWORN TO ME THIS THE 8 DAY OF February 1996.

NOTARY PUBLIC Gaibud Wayne Brandon

MY COMMISSION EXPIRES My Commission Expires JULY 24, 1999

FILED
KENNY CAVINESS - CIRCUIT CT. CLERK
FEB 26 1996
BY DEPUTY CLERK

CARTHEL L. SMITH, ATTORNEY AT LAW
85 East Church Street
Lexington, Tennessee 38351
(901) 968-2561

APPOINTED ATTORNEY FOR
DEFENDANT, JON HALL

HONORABLE WHIT LAFON
CIRCUIT COURT JUDGE
HENDERSON COUNTY
LEXINGTON TN 38351

CERTIFICATE OF SERVICE

I hereby certify that I have mailed a true and exact copy of the foregoing Motion to Jim Thompson, Assistant District Attorney, P. O. Box 2825, Jackson, Tennessee 38302-2825, on this the 19th day of Feb 1996.

Jon Hall

DF-MOT 13

jqp/jh
pd:file

IN THE CIRCUIT COURT FOR TWENTY-SIXTH JUDICIAL DISTRICT
HENDERSON COUNTY AT LEXINGTON, TENNESSEE
DIVISION I

STATE OF TENNESSEE	)	
	)	
V.	)	CRIM. NOS. 94-342, 94-452 and 94-454.
	)	
JON HALL	)	

MEMORANDUM OF LAW IN SUPPORT OF DEFENDANT'S MOTION FOR EARLY PRODUCTION OF WITNESSES' STATEMENTS

COMES NOW the Defendant, Jon Hall, by and through counsel, and has moved this Honorable Court for an order requiring the State of Tennessee to produce all statements the State will be required to produce in accordance with T.C.A. §40-17-120 and Rule 26.2 of the Tennessee Rules of Criminal Procedure, at least two weeks in advance of the trial date, for inspection and copying by counsel for the Defendant. This Memorandum of Law is respectfully submitted in support of the Defendant's Motion.

I.
DISCUSSION

The rule of law which permits a defendant to obtain copies of witnesses' statements is contained in Rule 26.2 of the Tennessee Rules of Criminal Procedure, which provides as follows:

Tenn. R. Crim. P., Rule 26.2

(a) After a witness other than the defendant has testified on direct examination, the trial court, on motion of a party who did not cal the witness, shall order the attorney for the state or the defendant and his attorney, as the case may be, to produce, for the examination and use of the moving party, any statement of the witness that is in their possession and that relates to the subject matter concerning which the witnes has testified.

(b) If the entire contents of the statement relate to the subject matter concerning which the witness has testified, the court shall order that the statement be delivered to the moving party.

(c) If the other party claims that the statement contains matte that does not relate to the subject matter concerning which the witness has testified, the court shall order that it be delivered to the court in camera. Upon inspection, the court shall excise the portions of the statement that do not relate to the subject matter concerning which the witnesss has testified, and shall order that the statement, with such mmaterial excised, be delivered to the moving party. Any portion of the statement that is withheld from the defendant over his objection shall be preserved by the attorney for the state, and, in the event of a convictio and an appeal by the defendant, shall be made avilable to the appellate court for the purpose of determining the correctness of the decision to excise the portion of the statement.

(d) Upon delivery of the statement to the moving party, the cou upon application of that party, may recess proceeding in the trial for th examination of such statement and for preparation for its use in the tria

(e) If the other party elects not to comply with an order to deliver a statement to the moving party, the court shall order that the testimony of the witness be stricken from the record and that the trial proceed, or, if it is the attorney for the state who elects not to comply shall declare a mistrial if required by the interest of justice.

(f) Except as herein provided, this rule shall apply at a heari before the trial court on a motion under Rule 12 (b).

(g) As used in this rule, a "statement" of a witness means as follows:

(1) A written statement made by the witness that is signed or otherwise adopted or approved by him; or

(2) A substantially verbatim recital of an oral statemen made by the witness that is recorded contemporaneously with the makin of the oral statement and that is contained in a stenographic, mechanical, electrical, or other recording or a transcription thereof.

The Committee Comment to Rule 26.2 states that its language i "substantially identical" to the language in Rule 26.2 of the Federal Rules of Criminal Procedure, formerly known as Jencks Act (18 U.S.C. § 3500). See Tenn. R. Crim. P., Rule 26.2, Committee Comment (1984).

(a) After a witness called by either the state or defendant i criminal case has testified on direct exmaination, the court shall, o motion, order the state or the defense to produce any statement of th witness in the state's or the defenses' possession which relates to t subject matter as to which the witness has testified. Upon request by the state or the defense made upon calling a witness and in advance o direct testimony, the court first shall inspect such statement in came to determine if it contains matter relating to the subject matter of testimony. The court shall excise usch portions which do not relate t the subject matter of the testimony; however, in the event of convict and appeal, on motion by either party, the entire statement shall be made available to the reviewing courts. If the party calling a witnes elects not to comply with this paragraph, the court shall have the wi ness withdraw and shall not allow any direct testimony.

(b) The term "statement" as used in this section means is as follows:

(1) A written statement made by a witness and signed, or otherwise adopted or appproved by him; or

(2) A stenographic, mechanical, electrical, or other recor ing of a statement, or a transcription or summary thereof, which is essentially verbatim recital of, an oral statement made by said witness. T.C.A. § 40-17-120.

As many observed above, Rule 26.2 and T.C.A. § 40-17-120; are closely related. Both are patterned fater the Jceks Act, 18 U.S.C. 3500, now Rule 26.2, Federal Rules of Criminal Procedure, but are broader in scope, particularly in their application to pretrial motic hearings. See Tenn. R. Cirm. P., Rule 26.2, Committee Comment (1984).

The literal language of Rule 26.2 (a) for the production of witness statements fater a witness called either by the state or defense has testified on direct examination. See Tenn. R. Crim. P., Rule 26.2 (a); State v. Robinson, 618 S.W.2d 754, 757 (Tenn. Crim. App. 1981) However, courts have inherent power to do all things that are reasonable necessary for the adminstration of justice within the scope of their jurisdiction. See generally, 20 Am. Jur. 2d, Courts §7 (1965). An example of the exercise of such inherent power is the prom ulgation of local rules which require the filing of pretrial motions on or before a specified date.

Furthermore, courts have long recognized that they have inhere power not limited by statute or rule to insure that due process of la is provided and that criminal trials are fair and efficient. See United States v. Narciso, 446 F. Supp. 252, 270-271 (E.D. Mich 1977); See also United States v. Jackson, 508 F. Supp. 1001 (7th Cir. 1975).

The federal courts have also recognized that strict adherence to the schedule imposed by the Jencks Act (Rule 26.2 Federal Rules of Criminal Procedure) can be expected to lengthen the trial considerably. Needless to say, the recesses occasioned by delayed pro-

duction of Jencks material, and in case this case Rule 26.2 material, will seriously hamper efficient, orderly and fair conduct of a trial. The subject of a trial will often be difficult enough for the parties, the court and jurors to assimilate without the added hindrance of numerous delays. See United States v. Narciso, supra, 445 F. Supp. at 270.

Accordingly, the Defendant submits that the State should provi the Defendant with all statements producible in accordance with Rule 26.2 and T.C.A. § 40-17-120 reasonably in advance of the trial date. order the early production of witnesses statements will allow defense for the Defendant, avoid delays at trial occasioned by delivery of materials to defense counsel during the proceedings, and generally ma the trial of this cause more efficient.

II.
CONCLUSION

For the reasons stated herein, the Defendant respcetfully requ that the State of Tennessee be compelled to proudce all statements wi in the purview of Rule 26.2 and T.C.A. § 40-17-120 two weeks in advan of the trial date.

Respectfully Submitted,

Jon Hall
Jon Hall - Defendant

SWORN TO ME THIS THE 8 DAY OF February 1996.

NOTARY PUBLIC Howard Wayne Brandon

MY COMMISSION EXPIRES My Commission Expires JULY 24, 1999

CARTHEL L. SMITH, ATTORNEY AT LAW
85 East Church
Lexington, Tennessee 38351
(901) 968-2561

APPOINTED ATTORNEY FOR
DEFENDANT, JON HALL

HONORABLE WHIT LAFON
CIRCUIT COURT JUDGE
HENDERSON COUNTY
LEXINGTON TN 38351

CERTIFICATE OF SERVICE

I hereby certify that I have mailed a true and exact copy of the foregoing Motion to Jim Thompson, Assistant District Attorney, P. O. Box 2825, Jackson, Tennessee 38302, this 19th day of Feb 1996.

Jon Hall

MR JON HALL #233841
RMSI 7475 COCKRILL BEND IND RD
NASHVILLE TN 37209-1010

DF-MOT 13

IN THE CIRCUIT COURT OF HENDERSON COUNTY, TENNESSEE
DIVISION I

STATE OF TENNESSEE, Plaintiff,	)	
VS.	) NO. 94-342	FILED HENDERSON CHANCERY - CIRCUIT CT. CLERK MAR 07 1996
JON HALL, Defendant.	)	BY DEPUTY CLERK

MOTION TO TRANSFER TO MADISON COUNTY PENAL FARM

Comes the Defendant, JON HALL, by and through his attorneys of record, Jesse H. Ford, III and Clayton F. Mayo, and hereby moves this Honorable Court to transfer Defendant from Riverbend Maximum Security Institution in Nashville, Tennessee, to the Madison County Penal Farm for the following reasons:

1. That Defendant has been charged with First Degree murder and notice has been entered by the District Attorney General's Office seeking the Death Penalty;

2. That Attorneys for Defendant have just been recently appointed to this case and Attorneys most definitely need to spend time meeting with Defendant regarding this case;

3. That Attorneys feel that they will be not be able to competently and adequately prepare for this case with Defendant being incarcerated such a far distance away from Attorneys;

4. That Attorneys for Defendant and Defendant believe that this would be in everyone's best interest;

5. That Defendant is a pretrial detainee but is being treated the same as if he has already been convicted and is subject to twenty-three (23) hour lockdown;

6. That there is no reason regarding Defendant's conduct as to why he should be in lockdown for twenty-three hours a day and located such a far distance from his attorneys.

BASED UPON THE FOREGOING REASONS, Attorneys for Defendant, Jesse H. Ford, III and Clayton F. Mayo, and Defendant, JON HALL, respectfully request that this Honorable Court transfer Defendant from the Riverbend Maximum Security Institution and the Department

of Corrections' custody to the Madison County Penal Farm to facilitate the attorney/client relationship.

DATED this the 6th day of March, 1996.

Respectfully submitted,

JESSE H. FORD, III, #00119775
Appointed Attorney for Defendant
618 N. Highland Avenue
P.O. Box 1625
Jackson, TN 38302-1625
(901) 422-1375

CLAYTON F. MAYO, #014138
Appointed Attorney for Defendant
618 N. Highland Avenue
P.O. Box 1625
Jackson, TN 38302-1625
(901) 422-1375

CERTIFICATE OF SERVICE

I hereby certify that I have either mailed or personally delivered a true copy of the foregoing to Mr. James Thompson, Assistant District Attorney, P.O. Box 2825, Jackson, TN 38302, this the 6th day of March, 1996.

JESSE H. FORD, III

CLAYTON F. MAYO

IN THE CIRCUIT COURT OF HENDERSON COUNTY, TENNESSEE
DIVISION I

STATE OF TENNESSEE,)
)
Plaintiff,)
)
VS.) NO. 94-342
)
JON HALL,)
)
Defendant.)

FILED
KENNY CAUDLE - CIRCUIT CT. CLERK
MAR 07 1996
BY _____ DEPUTY CLERK

MOTION

Comes your defendant, JON HALL, by and through his attorneys of record, Jesse H. Ford, III and Clayton F. Mayo, and hereby moves this Honorable Court to allow Attorneys to be considered included in all motions in this case that have been previously filed by Defendant's prior attorneys.

DATED this the 6th day of March, 1996.

Respectfully submitted,

Jesse H. Ford III by CFM

JESSE H. FORD, III, #00119775
Appointed Attorney for Defendant
618 N. Highland Avenue
P.O. Box 1625
Jackson, TN 38302-1625
(901) 422-1375

CLAYTON F. MAYO, #014138
Appointed Attorney for Defendant
618 N. Highland Avenue
P.O. Box 1625
Jackson, TN 38302-1625
(901) 422-1375

CERTIFICATE OF SERVICE

I hereby certify that I have either mailed or personally delivered a true copy of the foregoing to Mr. James Thompson, Assistant District Attorney, P.O. Box 2825, Jackson, TN 38302, this the 6th day of March, 1996.

Jesse H. Ford III by CFM

JESSE H. FORD, III

CLAYTON F. MAYO

IN THE CIRCUIT COURT OF HENDERSON COUNTY, TENNESSEE
DIVISION I

STATE OF TENNESSEE,)
Plaintiff,)
VS.) NO. 94-342
JON HALL,)
Defendant.)

FILED
KENNY CAVNESS - CIRCUIT CT. CLERK
MAR 07 1996
BY _____ DEPUTY CLERK

ORDER

This cause came to be heard this the _____ day of _____, 1996, before the Honorable Whit LaFon, Circuit Court Judge, upon Motion of Defendant, and it appearing to the Court that said Motion is good, and,

IT IS, THEREFORE, ORDERED, ADJUDGED AND DECREED that Defendant's attorneys, Jesse H. Ford, III and Clayton F. Mayo, be considered included in all motions in this case that have been previously filed by Defendant's prior attorneys.

ENTER this the 11 day of March, 1996.

HONORABLE WHIT LAFON
Circuit Court Judge

APPROVED FOR ENTRY:

Jesse H. Ford III by CFord
JESSE H. FORD, III
Attorney for Defendant

CLAYTON F. MAYO
Attorney for Defendant

CERTIFICATE OF SERVICE

I hereby certify that I have either mailed or personally delivered a true copy of the foregoing to Mr. James Thompson, Assistant District Attorney, P.O. Box 2825, Jackson, Tennessee 38302, this the 6th day of March, 1996.

Jesse H. Ford III
JESSE H. FORD, III

CLAYTON F. MAYO

IN THE CIRCUIT COURT OF HENDERSON COUNTY, TENNESSEE
DIVISION I

STATE OF TENNESSEE,
Plaintiff,
VS.
JON HALL,
Defendant.

NO. 94-342

FILED
KENNY CAVNESS - CIRCUIT CT. CLERK
APR 27 1996
BY _____
DEPUTY CLERK

ORDER

This cause came to be heard the 9th day of April, 1996, before the Honorable Whit LaFon, Circuit Court Judge, and it appearing to the Court that Defendant, JON HALL, by and through his attorneys of record, Jesse H. Ford, III and Clayton F. Mayo, filed a Motion to Transfer Defendant from Riverbend Maximum Security Institute in Nashville, Tennessee, to the Madison County Jail or the Madison County Penal Farm, and it appearing to the Court that the Madison County Jail and the Madison County Penal Farm are full and all isolation cells are additionally full because of juvenile transfer defendants and HIV positive defendants, and it further appearing to the Court that Defendant and his attorneys need time to communicate with each other, and,

IT IS, THEREFORE, ORDERED, ADJUDGED AND DECREED that:

1. That Defendant, JON HALL, is incarcerated at Riverbend Maximum Security Institute, in Nashville, Tennessee;

2. That in the event a local isolation cell becomes available at the Madison County Jail or the Madison County Penal Farm or within this district, such as Chester County Jail or McNairy County Jail, JON HALL shall be put on a list so as to put him in line for one of these isolation cells so his attorneys and he can communicate with each other more effectively;

3. That this matter may be reviewed again as the trial date approaches;

4. That Attorneys, Jesse H. Ford, III and Clayton F. Mayo, shall have unlimited travel time to communicate with Defendant at Riverbend Maximum Security Institute in order to competently and

effectively represent Defendant JON HALL in this matter.

ENTER this the 27 day of April, 1996.

HONORABLE WHIT LAFON
Circuit Court Judge

APPROVED FOR ENTRY:

CLAYTON F. MAYO
Attorney for JON HALL

JESSE H. FORD, III
Attorney for JON HALL

IN THE CIRCUIT COURT OF HENDERSON COUNTY, TENNESSEE
DIVISION I

STATE OF TENNESSEE, Plaintiff, VS. JON HALL, Defendant.	)	NO. 94-342

FILED
KENNY CAVNESS - CIRCUIT CT. CLRK.
MAY 0 7 1996
BY _____ DEPUTY CLERK

MOTION FOR PRIOR AUTHORIZATION FOR PAYMENT OF COSTS FOR COPY OF TRANSCRIPT

Comes your defendant, JON HALL, by and through his attorneys of record, Clayton F. Mayo and Jesse H. Ford, III, and hereby move this Honorable Court to grant an Order for prior authorization for payment of costs for a copy of the transcript from Defendant's Motions hearing in the above referenced matter for the following reasons:

1. That the above named Defendant is indigent;

2. That Attorneys need a copy of the transcript from the above referenced Motions hearing to prepare for the trial in the above captioned matter;

3. That this request is necessary in the adequate and competent representation of the above named defendant.

Therefore, Attorneys Clayton F. Mayo and Jesse H. Ford, III request prior authorization for payment of costs for a copy of the transcript from Defendant's Motions hearing in the above referenced matter.

DATED this the 3rd day of May, 1996.

Respectfully submitted,

CLAYTON F. MAYO, BPR# 014138
Attorney for Defendant
618 N. Highland Avenue
P.O. Box 1625
Jackson, TN 38302-1625
(901) 422-1375

JESSE H. FORD, III BPR# 009775
Attorney for Defendant
618 N. Highland Avenue
P.O. Box 1625
Jackson, TN 38302-1625
(901) 422-1375

CERTIFICATE OF SERVICE

I hereby certify that a true and exact copy of the foregoing was served on Mr. Al Earls, Assistant District Attorney, P.O. Box 2825, Jackson, TN 38302, by mailing the same with sufficient postage to insure proper delivery this the 2nd day of May, 1996.

CLAYTON F. MAYO

JESSE H. FORD, III

IN THE CIRCUIT COURT OF MADISON COUNTY, TENNESSEE
DIVISION I

STATE OF TENNESSEE,
Plaintiff,
VS.
JON HALL,
Defendant.

NO. 94-342

FILED
KENNY CAYNESS - CIRCUIT CT. CLERK
MAY 1 1 1996
BY _____ DEPUTY CLERK

ORDER

This cause came to be heard this the ____ day of _____, 1996, before the Honorable Whit LaFon, Circuit Court Judge, and it appearing to the Court that Attorneys Clayton F. Mayo and Jesse H. Ford, III need a copy of the transcript from Defendant's Motions hearing in the above captioned matter in order to prepare for Defendant's trial,

IT IS THEREFORE, ORDERED, ADJUDGED AND DECREED that Attorneys Clayton F. Mayo and Jesse H. Ford, III are granted prior authorization for payment of costs for a copy of the transcript from Defendant's Motions hearing in the above referenced matter.

ENTER this the 8 day of May, 1996.

HONORABLE WHIT LAFON
Circuit Court Judge

APPROVED FOR ENTRY:

CLAYTON F. MAYO
Attorney for Defendant

JESSE H. FORD, III
Attorney for Defendant

IN THE CIRCUIT COURT OF HENDERSON COUNTY, TENNESSEE
DIVISION I

STATE OF TENNESSEE,)
Plaintiff,)
VS.) NO. 94-364
JON HALL,)
Defendant.)

FILED
KENNY CAVNESS - CIRCUIT CT. CLRK
JUL 01 1996
BY _____ DEPUTY CLERK

EX PARTE ORDER APPROVING EMPLOYMENT OF MITIGATION SPECIALIST

This cause came to be heard this the ____ day of _____, 1996, before the Honorable Whit LaFon, Circuit Court Judge, upon the Ex-Parte Motion of the Defendant, Jon Hall, for the authorization to employ a mitigation specialist at State expense to assist defense counsel in the preparation of this case. The Court finds that the motion is well taken and should be granted.

IT IS, THEREFORE ORDERED that Defense Counsel is authorized to employ Glori J. Shettles of Inquisitor, Inc., Memphis, Tennessee, to perform a mitigation investigation in this matter, at the rate of $55.00 per hour and incidental expenses to be billed at the current approved Tennessee State Government rate.

IT IS FURTHER ORDERED that said investigator is authorized to perform up to 100 to 200 hours of work on this case, at which time he shall report to Defense Counsel concerning his progress. Defense Counsel shall then report to the Court before any further work may be performed.

ENTER this the 27 day of June, 1996.

HONORABLE WHIT LAFON
Circuit Court Judge

APPROVED FOR ENTRY:

CLAYTON F. MAYO
Attorney for Jon Hall

JESSE H. FORD, III
Attorney for Jon Hall

IN THE CIRCUIT COURT OF HENDERSON COUNTY, TENNESSEE
DIVISION I

STATE OF TENNESSEE,
Plaintiff,
VS.
JON HALL,
Defendant.

NO. 94-364

EX PARTE MOTION FOR FURTHER INVESTIGATION SERVICES

Comes your Defendant, JON HALL, by and through his attorneys of record, Clayton F. Mayo and Jesse H. Ford, III, and respectfully requests this Honorable Court to grant his private investigator, Tammy Askew of Candid Investigations, an additional Fifty hours (50) at the rate of Forty dollars ($40.00) per hour to complete her investigation in Defendant's First Degree Murder case, of which the State is seeking the death penalty.

DATED this the 37th day of June, 1996.

Respectfully submitted,

CLAYTON F. MAYO, 014138
Appointed Attorney for Defendant
618 N. Highland Avenue
P.O. Box 1625
Jackson, TN 38302-1625
(901) 422-1375

JESSE H. FORD, III
Appointed Attorney for Defendant
618 N. Highland Avenue
P.O. Box 1625
Jackson, TN 38302-1625
(901) 422-1375

IN THE CIRCUIT COURT OF HENDERSON COUNTY, TENNESSEE
DIVISION I

STATE OF TENNESSEE,	)	FILED KENNY CAVNESS - CIRCUIT CT. CLRK. JUL 13 1996 BY_____ DEPUTY CLERK
Plaintiff,	)	
VS.	) NO. 94-364	
JON HALL,	)	
Defendant.	)	

EX PARTE ORDER FOR FURTHER INVESTIGATION SERVICES

This cause came to be heard the ____ day of _____, 1996, before the Honorable Whit LaFon, Circuit Court Judge, and it appearing to the Court that Defendant and his attorneys in the above referenced case are in need of further funds for private investigation services, and it further appearing to the Court that the above referenced case is a capital murder case in which the State is seeking the death penalty, and it further appearing to the Court that such services are necessary, and,

IT IS, THEREFORE, ORDERED, ADJUDGED AND DECREED that Defendant's private investigator, Tammy Askew, be granted an additional fifty (50) hours at Forty dollars ($40.00) per hour from the State of Tennessee Indigent Defense Fund for the purposes of investigating the above referenced matter.

ENTER this the 1st day of July, 1996.

HONORABLE WHIT LAFON
Circuit Judge

APPROVED FOR ENTRY:

CLAYTON F. MAYO
Attorney for Defendant

Jesse H Ford by CFM
JESSE H. FORD, III
Attorney for Defendant

IN THE CIRCUIT COURT OF HENDERSON COUNTY, TENNESSEE
DIVISION I

STATE OF TENNESSEE,
Plaintiff,
VS.
JON HALL,
Defendant.

NO. 94-364

FILED
KENNY CAVNESS - CIRCUIT CT. CLERK
JUN 13 1996
BY _____
DEPUTY CLERK

AFFIDAVIT

I, Tammy Askew, do depose and state as follows:

1. That I am a licensed private investigator;

2. That I have been approved and appointed by this Honorable Court as the Private Investigator for Jon Hall to assist defense counsel in the preparation of this case;

3. That an Order Approving Employment of Private Investigator was entered with this Court on June 29, 1995, authorizing me to perform up to fifty (50) hours of investigative work at the rate of Forty dollars and 00/100 ($40.00) per hour;

4. That I have completely utilized the entire 50 hours allowed by the Court;

5. That I have contacted the office of Attorney Clayton F. Mayo and made his office aware that I am in need of additional time in order to complete my investigation;

6. That there are several more witnesses that need to be interviewed;

7. That in addition to completing the investigation, I am in need of more time to competently and adequately prepare my final report prior to Defendant's trial.

DATED this the 27 day of June, 1996.

Tammy Askew
TAMMY ASKEW
Private Investigator

Sworn to and subscribed before me this the 27 day of June, 1996.

NOTARY PUBLIC

My Commission Expires: 10/14/99

IN THE CIRCUIT COURT FOR THE TWENTY-SIXTH JUDICIAL DISTRICT

HENDERSON COUNTY, AT LEXINGTON TENNESSEE

DIVISION I

JON HALL)
)
V.) CRIM. NO. 94-342, 94-452, 94-454
)
STATE OF TENNESSEE)

FILED
KENNY CAVNESS - CIRCUIT CT. CLRK.
AUG 15 1996
BY _____ DEPUTY CLERK

NOTICE OF MOTIONS

Please take notice, that the undersigned will bring the below mentioned motions, for a hearing before the Circuit Court, Judge, Whit S. Lafon, at Court Room _____, _____, County Tennessee, on the ____ day of _____ 1996, at ___:___ O'clock _____ or as soon thereafter as defense can be heard.

[1] DF-MOT # 2. Motion to appoint Jon Hall, as co-counsel.
[2] DF-MOT # 3. Request for Discovery and / or Inspection.
[3] DF-MOT # 4. Motion to Suppress, Revised 7/2/96.
[4] DF-MOT # 6. Motion to Dismiss and Abate all supra Indictments, Pursuant to Waugh V. State, 564 S.W.2d 654 / [Argument in Support]
[5] Motion to Exclude Indictment before Veniresmen.
[6] DF-MOT # 8. Motions to Exclude Exhibits from Jury Deliberations.
[7] DF-MOT # 13. Motion for Early Production of Witnesses' Statement
[8] DF-MOT # 14. Motion for Accurate Transcripts / Recording of Prior Proceedings, (Review of Recordings).
[9] DF-MOT # 15. Motion for State Court / Consider Habeas Corpus Relief
[10] DF-MOT # 16. Motion for Fair & Speedy Trial / Untried Indictments
[11] DF-MOT # 17. Writ of Certiorari / Bind-Over Proceedings.

Wherefore, Defendant's legally viable motions, can be heard, & placed on the record for the preservation of my constitutional rights, to be sent to the Criminal Court of Appeals, P.O. Box 909, Jackson, Tennessee 38302, along with my Petition.

Respectfully Submitted,

Jon Hall

Jon Hall # 238941
R.M.S.I. COCKRILL BEND IND. RD.
Nashville Tennessee 37209-1010

CERTIFICATE OF SERVICE

I Jon Hall, hereby certify that I have mailed a copy of the foregoing notice, for the previously filed motions, to the D.A. office at P.O. Box 2825, Jackson, Tennesee 38302, This the 13th day Aug 1996.

IN THE CIRCUIT COURT OF HENDERSON COUNTY, TENNESSEE
DIVISION I

JON HALL	)	
	)	
v.	)	No. 94-342
	)	94-452
STATE OF TENNESSEE	)	94-454

STATE'S RESPONSE

Comes now the State of Tennessee by and through the office of the District Attorney General and in response to the above styled notice of motions states:

1. The "Notice of Motions" is not a motion, no does it state any factual basis for any colorable claim.

2. The Court has previously overruled those motions listed in the defendant's "Notice of Motions."

3. The State's response will be to legitimate motions by defense counsel and not the defendant.

Respectfully submitted:

ASSISTANT DISTRICT ATTORNEY
26TH JUDICIAL DISTRICT

Certificate of Service

I hereby certify that I have mailed or delivered a true copy of the foregoing to Mr. Jay Ford, Attorney at Law, 618 N. Highland Ave., Jackson, TN 38301, this the 20 day of August, 1996.

ASSISTANT DISTRICT ATTORNEY
26th JUDICIAL DISTRICT

IN THE CIRCUIT COURT OF HENDERSON COUNTY, TENNESSEE
DIVISION I

STATE OF TENNESSEE,)
Plaintiff,)
VS.) NO. 94-342
JON HALL,)
Defendant.)

MOTION TO HAVE DEFENDANT TRANSFERRED
TO MADISON COUNTY PENAL FARM OR MADISON COUNTY JAIL

Comes the Defendant, JON HALL, by and through his attorneys of record, Clayton F. Mayo and Jesse H. Ford, III, and hereby moves this Honorable Court to transfer Defendant from Riverbend Maximum Security Institution in Nashville, Tennessee, to the Madison County Jail or the Madison County Penal Farm for the following reasons:

1. That Defendant has been charged with First Degree murder and notice has been entered by the District Attorney General's Office seeking the Death Penalty;

2. That a trial date in this matter has been scheduled for October 15, 1996;

3. That Attorneys work in Jackson, Tennessee, and Defendant is incarcerated in Nashville, Tennessee;

4. That Attorneys must take an entire day from their schedule for their meetings with Defendant, of which approximately five (5) hours of work are being spent driving to and from Riverbend;

5. That Attorneys feel they will be not be able to competently and adequately prepare for this case with Defendant being incarcerated such a far distance away from Attorneys;

6. That Attorneys feel that in order to prepare a competent and adequate defense, Defendant should be brought to Madison County at least one month prior to trial.

BASED UPON THE FOREGOING REASONS, Attorneys for Defendant, Clayton F. Mayo ad Jesse H. Ford, III, and Defendant, JON HALL, respectfully request that this Honorable Court transfer Defendant from the Riverbend Maximum Security Institution and the Department

of Corrections' custody to the Madison County Jail or the Madison County Penal Farm at least one month prior to trial in order to prepare a competent and adequate defense for the trial in this matter scheduled for October 15, 1996.

DATED this the 27th day of August, 1996.

Respectfully submitted,

CLAYTON F. MAYO, #014138
Appointed Attorney for Defendant
618 N. Highland Avenue
P.O. Box 1625
Jackson, TN 38302-1625
(901) 422-1375

Jesse H. Ford, III by CM
JESSE H. FORD, III, #00119775
Appointed Attorney for Defendant
618 N. Highland Avenue
P.O. Box 1625
Jackson, TN 38302-1625
(901) 422-1375

CERTIFICATE OF SERVICE

I hereby certify that I have either mailed or personally delivered a true copy of the foregoing to Mr. Al Earls, Assistant District Attorney, P.O. Box 2825, Jackson, TN 38302, this the 27th day of August, 1996.

CLAYTON F. MAYO

Jesse H. Ford, III by CM
JESSE H. FORD, III

IN THE CIRCUIT COURT FOR THE TWENTY-SIXTH JUDICIAL DISTRICT

HENDERSON COUNTY AT LEXINGTON, TENNESSEE

DIVISION I

FILED
KENNY CAVNESS - CIRCUIT CT. CLRI
AUG 30 1996
BY _____ DEPUTY CLERK

JON HALL)
)
V.) DOCKET NO. 94-342, 94-452, 94-492
)
STATE OF TENNESSEE)

MOTION FOR DEFENDANT'S PRESENCE DURING ALL PROCEEDINGS HELD

Comes now the defendant, Jon Hall, pursuant to Rule # 10 (a) of the Tennessee Rules of Criminal Procedure to be present during all of the criminal proceedings to be had in this matter. The defendant would further like to stipulate that He will be present during any and all competency hearings pursuant to State v. Suttles, 767 S.W.2d 403, for any and all Witnesses, scheduled to testify for the State.

Respectfully submitted,

Jon Hall

Sworn and subscribed before me this the 27 day of August 1996.

Notory Public Howard Wayne Brandon

My commission expires My Commission Expires JULY 24, 1998

CERTIFICATE OF SERVICE

I Jon Hall, hereby certify that I have mailed a true, and exacct copy of the foregoing motion to Jim Thompson, Assistant, Distrct, Attorney, P.O. Box 2825, Jackson Tennessee 38302, this the 28 day of Aug 1996.

IN THE CIRCUIT COURT OF HENDERSON COUNTY, TENNESSEE

STATE OF TENNESSEE,)
)
VS.) No. 94-342; 94-452
) and 94-454
JON HALL,)

FILED
KENNY CAVNESS - CIRCUIT CT. CLK
SEP 12 1996
BY _____ DEPUTY CLERK

MOTION TO RENEW MOTION FOR CHANGE OF VENUE

Comes now the Defendant, Jon Hall, by and through his attorneys of record, Jesse H. Ford, III and Clayton F. Mayo, and renews the motion previously filed herein for change of venue pursuant to Rule 21 of the Tennessee Rules of Criminal Procedure as follows:

1. That the Defendant hereby renews his previous Motion for Change of Venue which was filed in the above matter which basically sets forth grounds for change of venue from another county within this judicial district due to prejudicial publicity the Defendant has received in Henderson County, Tennessee.

2. The Defendant hereby incorporates herein by reference those allegations which were set forth in the original motion.

Based on the foregoing, the Defendant, pursuant to Rule 21 of the Tennessee Rules of Criminal Procedure, would move this Honorable Court for a change of venue to another county within this judicial district.

Dated, this the 3rd day of September, 1996.

Respectfully submitted,

JESSE H. FORD, III 009775
Attorney for Defendant
P. O. Box 1625
Jackson, TN 38302-1625
(901) 422-1375

CERTIFICATE OF SERVICE

I hereby certify that a true and exact copy of the foregoing was served on Mr. Al Earls, Assistant District Attorney, P. O. Box 2825, Jackson, Tennessee 38302 by mailing the same with sufficient postage to insure proper delivery this the 3rd day of September, 1996.

JESSE H. FORD, III